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THE SALES TAX
IN FRANCE

BY

CARL S. SHOUP

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FOREWORD

For several reasons this volume will be received as a welcome addition to American tax literature. In the first place, students of public finance everywhere will be grateful for a sound description, analysis and appraisal of this *impôt sur le chiffre d'affaires*, perhaps the most interesting and significant development in recent French financial history. The achievements of this productive sales tax, during the period of distress through which France has recently passed, constitute a chapter of financial history which deserves to be recorded with the care and skill which Dr. Shoup has lavished on this book.

In addition to its obvious historical value, it is safe to predict that the volume will exert an influence upon opinion in the United States regarding the desirability of some form of sales tax as a part of the American fiscal system. For fifteen years, since the outbreak of the World War, American taxation, national and local, has been in a state of ferment. The necessity of providing for war expenditures completely revolutionized the Federal tax system. A decade ago many influential business men in America, harassed by the complexities of the hastily elaborated and inexpertly administered income and excess-profits taxes, and impressed by the reports of the simple and productive sales taxes in force in various foreign countries, loaned their support to a proposal to substitute a general sales tax for the new Federal taxes based on income. That movement failed, it is true, and with the rapid amortization of the public debt, it now seems unlikely that the sales tax will be seriously considered as a Federal measure in the years which lie immediately ahead.

It is interesting, and may be significant, however, that the interest in the sales tax has not diminished but has perhaps increased in intensity. Instead of a Federal tax, state taxes on sales are now being actively agitated and, to some extent, actually adopted.

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West Virginia's experiment with a sales tax of limited application has aroused widespread interest. Connecticut made a clever use of the device when it adopted gross income as the base for its 1921 tax on unincorporated manufacturers and merchants. Only last year Georgia adopted a measure which closely approaches a general sales tax. In a great many states, including even such important states as New York and California, proposals for the establishment of comprehensive sales taxes are receiving serious consideration.

The reasons for this situation are not far to seek. The expansion of expenditure has necessitated the development of new sources of state revenue. The use of business taxes based on net income is a solution which has been widely advocated but the method has made rather slow progress against obstacles such as the large use of the income-tax field by the heavy Federal taxes, the difficulties of administration and the aversion of the business men to a tax which is difficult to shift. Moreover, the recent trend of court decisions regarding the allocation of interstate income and regarding the limitations of the "franchise-tax" device has made it increasingly difficult to utilize the net income base. Finally, no state has yet brought itself to take the logical but unpopular step of taxing unincorporated business on the net income base, involving, as this does, an apparent discrimination against earned income. In this situation the sales tax is offered as a measure which is alleged to be simple of administration, difficult of evasion, productive in yield and fair in its effects.

The plain fact seems to be that agreement of sentiment has not yet been reached in America regarding either the true objects or the actual effects of business taxation. Should our business taxes be designed to be shifted or should they be designed to be borne by the business itself? Should they be considered as charges payable by all as a condition precedent to participation in business activities or should they be considered community shares in the profits of those who conduct business activities with success? In actual practice are the business taxes based on income always or nearly always borne by the business, and are impositions such as the sales tax, which are payable irrespective of the amount of profit earned by the business, always or nearly always shifted?

Until agreement can be reached on such questions as these the problem of elaborating a satisfactory method of business taxation can not be solved. This book, by its clear exposition of the aims and the accomplishments of the French in imposing their sales tax, will contribute toward the agreement which must precede the formulation of our course of action in this field. It throws considerable light on the administrative difficulties and the fiscal and economic effects which may be expected from the adoption of this form of taxation.

Finally, wherever attempts are being made to draft and to administer sales taxes, Dr. Shoup's book will be received with gratitude. From an exhaustive survey of court and administrative rulings, of parliamentary debates and of memorials and petitions, the author has obtained a masterly grasp of the problems and difficulties encountered by the French and of the methods they have used to solve and overcome them. The discussion as presented is sufficiently full and precise to be of substantial assistance to that rapidly increasing proportion of American legislators and tax officials who possess the intelligence and the inclination to utilize the experience of others in deciding what to adopt and what to avoid.

ROBERT MURRAY HAIG

MENTON, FRANCE
February, 1930

PREFACE

"SALES TAX" may refer to a special tax on the sale of some one commodity — *e.g.*, gasoline, cigarettes — or to a general tax on all sales. The latter is the sense in which the word is employed in the title of this book, though even so, strict accuracy is not attained, as the French tax is levied not only on sales, but on commissions, fees, interest, and many other commercial payments. The English term "turnover tax" is perhaps more applicable, but "sales tax" carries a clearer meaning to the American reader; hence its use in the title, while "turnover tax" is employed throughout the text. In France the tax is known as *l'impôt sur le chiffre d'affaires*, in Germany as *die Umsatzsteuer*. It is closely related to the old *alcavala* of Spanish history.

The general sales tax, although not the live issue in the United States for Federal taxation that it was shortly following the war, appears to be of growing interest in the field of state and local taxation, as evidenced by the references to it during the last (September, 1929) meeting of the National Tax Association. Therefore the experience of foreign countries with the turnover tax, especially during and since the war, is often looked to for assistance in unraveling the tangled skein of argument bound to develop around such a topic.

Most of the literature existing on the subject either adds to the confusion of polemics, or takes the form of tax manuals. Two notable exceptions are Rolf Grabower's *Die Geschichte der Umsatzsteuer und ihre gegenwärtige Gestaltung in Inland und in Ausland* (Berlin, 1925) and the National Industrial Conference Board's volume, *General Sales or Turnover Taxation* (New York, 1929). The former presents a history of the turnover tax from ancient times to modern; the latter concentrates on latter-day experience with special reference to problems likely to be encountered in state taxation in this country.

This volume does not cover so wide a field. Instead of presenting a broad view of the turnover tax the world over, with particular attention to the problems of this country, it contents itself with a detailed study of the French experience with the tax from 1920 to 1929. Many of the most perplexing problems involved in applying the tax in any state of the United States did not arise in France, and are not considered here; but almost every difficulty with which the French have had to deal would exist in this country, the differences being largely of degree.

Likewise this book follows an outline different from that adopted by the best existing French works on the turnover tax. Instead of making it a legal guide to the practical application of the tax, the author has been satisfied to draw such material largely from secondary sources and to present it in as compact a form as possible, consistent with completeness necessary for thorough understanding, devoting most of the volume to a description of the apparent motives underlying the imposition of the tax and the various changes made in the course of nine years, and to as full a presentation and analysis of the tax statistics as is possible at the present time.

This plan naturally includes some discussion of the merits and demerits of the various proposals — adopted or not adopted — concerning the more important problems presented by the tax, especially those relating to administration and control, exemptions, the "replacement" taxes, the luxury taxes, and imports and exports. As much as possible, these discussions are cast in the form in which they took shape in Frenchmen's minds at the time.

The turnover tax itself, however, can not be understood in its French application without reference to the possible alternatives in taxation that existed during the deeply disturbing period of inflation and approach to bankruptcy. Therefore a section is devoted to the rôle the tax played in national politics, which shows sometimes directly, sometimes by inference, why the turnover tax rather than some other tax — or indeed, no tax at all — was employed. The general reader will probably find in this section, and in Part II, the essentials for an understanding of the French experiment. For a broader, and at the same time more detailed presentation of French tax politics in general, the reader is referred to Robert Murray Haig, *The Public Finances of Post-War France* (New York, Columbia University Press, 1930).

The author wishes to express his gratitude to the various officials in the Ministry of Finance who so kindly supplied him with information that could not be obtained elsewhere, and who so freely discussed the tax as seen through the eyes of those who have the ungrateful task of extracting the francs and centimes from the thrifty pockets of the French taxpayers. He also wishes to acknowledge his special indebtedness to Professor Robert Murray Haig, with whom it was his privilege to work in France, whose idea it was that gave the original impetus to the undertaking of the present work, and whose careful study of the manuscript has been productive of so many valuable suggestions. To Professor Edwin R. A. Seligman does the author likewise make grateful acknowledgment for the time and effort spent in formulating constructive criticism of the material contained herein. Ruth Snedden Shoup has been of constant help in the various stages of preparation of the volume, and Mr. Philip Newill has assisted greatly by his careful reading of the manuscript to suggest methods of achieving clarity and correctness of expression.

CARL S. SHOUP

COLUMBIA UNIVERSITY
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PART ONE

THE BACKGROUND OF THE TAX

CHAPTER I

THE FRENCH SALES TAX OR TURNOVER TAX

INTRODUCTION

The turnover tax in France is a levy of 2 per cent (at first it was but 1.1 per cent) upon gross receipts from almost all business transactions, extractive, manufacturing, wholesale, and retail.

The tax is a new thing for modern France. The country has long had a large number of indirect taxes, mainly on production and transfer of certain goods and property, and for the most part specific; but no *ad valorem* levy as extensive as the turnover tax had been tried for centuries.

It was introduced, not to accomodate either conservative or radical theories of distribution of wealth, but simply to raise money in the quickest and easiest way. Despite the criticisms leveled at it for its disappointing yield in 1920–1923, it accomplished this aim. Short of a capital levy there was no other tax to which France could have appealed which would not have brought the money in more slowly, or at greater expense.

But though its introduction was on such utilitarian grounds, the tax has become a battle-field for a three-cornered fight in which the issues have not always been clearly joined. The Government forces, represented by the Finance Ministry, won their initial victory in 1920 when the tax was passed, and they have stubbornly sought to maintain every inch of ground already gained in the constant battle for more and more revenue to check inflation. Radicals, claiming to speak for the mass of consumers and to some extent also for small business men, have used the tax as a convenient campaign cry against social injustice. Their strictures have usually been directed against the Government, but it is the third group, the conservatives and the well-to-do both in and outside of Parliament, who have made the radicals' wishes impossible of realization by very naturally refraining from supporting vigorous extension of the income taxes. One gains the impression that the respective finance ministers did not greatly care from which tax the money came; but they already had the turnover tax, and were loath to give it up without assurance that its substitute would meet with coöperation from the more important taxpayers.

The struggle so far has turned in favor of the Government forces. Abolition of the tax — promised in the political campaign of 1924 — has failed of accomplishment, as have various sweeping proposals for exemption of special classes. The only exemption of consequence granted since the tax was introduced in 1920 concerns artisans and domestic-industry workers, and this change was linked up with the business-profits schedule of the income tax.

True, complete exemption from the turnover tax has been granted to certain commodities — meat, sugar, tea, coffee, coal, and fertilizers being the chief examples — but this has been done only because in these cases a single-stage excise tax ("production," or "replacement" tax) has been substituted for the turnover tax. Further significant development along this line does not appear likely in the near future.

The most important point gained by opponents of the tax has been the introduction of the *forfait*, or estimated-tax-base, system, whereby a large majority of taxpayers need keep no records of sales, need not allow the tax agents to inspect any of their books or papers, and pay the turnover tax on an estimated base, which the tax collector agrees with after checking by whatever external indicia he may observe. Thus the tax, intended to have no connection with profits, has come to have little connection even with gross receipts, in many cases, and is levied in somewhat the same manner as the *patente*, which was discarded from the national tax system in favor of a profits tax in 1917.

In other fields, however, proposed changes have met with check. Retailers have not yet been granted exemption from the tax; the high-rate luxury taxes are still in force, though as this book goes to press word comes of a proposed reduction in their rates; and sales for export, after a brief trial of the contrary policy in 1926, are still exempt. The import tax has been altered in important ways, but in this case the aims in view have remained substantially the same, however much the means employed have changed.

Such, in brief, has been the course traced by the turnover tax in France during the last nine years. The advantages and disadvantages of that course may be considered later;[1] the point made here is that the tax has survived powerful attacks, emerging relatively whole, and securing for itself a dominant place in the tax system of France.

In the detailed consideration of the turnover tax it has seemed advisable to separate the legal treatment from the political and other aspects. Therefore Part III is devoted entirely to a study, largely chronological, of the legal application of the tax as decided by laws, *décrets*, *arrêtés*, court decisions, and unofficial opinions.

The background of these legal facts — the reasons they came to be, the reasons alternatives failed — is given in Chapter II, which sketches in broad outline the forces at work on the tax from 1920 to 1927, and in Part II, which deals with the problems of administration and control, exemptions, the luxury taxes, the production or replacement taxes, and imports and exports.

This arrangement involves some repetition of subject matter in order that either Part I, II, or III may be read without an undue amount of reference to other sections.

In Part IV a few comments are made on certain economic effects of the tax, and tables of yield are presented.

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[1] *Cf. infra*, pp. 351–354.

CHAPTER II

PARLIAMENTARY HISTORY OF THE TAX

The Situation Following the War. — French leaders in public finance found it advantageous by 1927 to survey the recent past, as it offered an effective contrast with the present and the immediate future. Senator Chéron, lending point to the favorable current situation, glanced back over the chaotic war and post-war years. He dwelt first upon the comparatively happy state of the finances in 1913. Then:

> Came the terrible catastrophe; we emerged victorious, but exhausted.
>
> To assure the safety of France, it was necessary to give everything: our current forces, the hard-earned savings of the past; and it was even necessary to mortgage the patrimony of the future. [*Très bien!* from the assembled Senators.]
>
> Five of our richest provinces had been wrecked from top to bottom, the demon of evil had been turned loose upon them, and all had been destroyed: houses, factories, railroads, mines, roads, the earth itself, furrowed with trenches and riddled with shells; two million six hundred thousand inhabitants had been forced to leave these places of horror.
>
> It was going to be necessary, for many long years, to pay pensions to widows, orphans, invalids, parents and grandparents, to all the victims of the war. . . . Our foreign trade balance, rendered worse by imports necessary to rebuild the liberated provinces, showed in 1920 an excess of imports of nearly 24 billions of francs. Agriculture had so suffered that we had harvested in 1918 but 36 million quintals of wheat,whereas we needed about 94 millions for food and seed. By January 1, 1919, we already had a debt of 170 billion francs. Taxes covered but 18 per cent of the public expenditures in 1918; not to speak of the budget of 1919, which resulted in a deficit of 40 billions.[1]

Viewed from almost any angle, then, the financial situation of the French Government at the start of 1920 was alarming.

The need for more revenue at that time was as real as France has ever seen it since 1914; more real, in many ways, than in the spectacular days of summer, 1926, when the "flight from the franc" attracted world-wide attention. The country in 1920 had committed itself to a vast rebuilding program and to a pension and damages payment scheme; yet it had won the war and its people were in no mood to face a monetary collapse, as they might have been (relatively, that is) under the duress of actual war operations, or with the excuse that they were a beaten nation. True, the monetary collapse came anyway, but it was of course far less severe than it would have been but for the revenue measures of 1920. In 1926 the need for ready cash was perhaps more apparent, and seemed more pressing; but most of the actual physical work of reconstruction, and a large part of the payments for damages and pensions had been made.

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[1] *Débats*, 1927, *Sénat*, *Session Ordinaire*, pp. 231, 232 (March 15).

An utter failure in 1920 to commence restoration of the devasted regions and payment to the *mutilés* and widows and orphans would have appeared far worse than a further mulcting of bondholders in 1926. Such is the writer's impression, at least; and from it is drawn the conclusion that the pressure for more revenue measures in 1920 was practically irresistible. Bonds had to be floated to furnish the means with which to rehabilitate France's northern provinces and pay her veterans; the bonds could not be floated unless there was some assurance that revenue would be forthcoming to cover at least part of the interest charges. Once the flotation had been accomplished, the revenue system might be left unchanged.

Nor was it merely a case of raising money to cover interest charges on the new loans. Even without these charges, the existing public revenue was insufficient to balance the budget. The outgoing finance minister, Klotz, serving in the Clemenceau Cabinet, told Parliament in January, 1920, that the monthly average of "normal and permanent" expenses was then one and one-half billion francs, while revenue was only 800 to 900 million francs; his 1920 budget estimate put such expenses at 18 billions, with only 9.5 billions in revenue available.[2] This was before the flotation of the large 1920 loans. During the war France had put off the

[2] *Documents Parlementaires*, 1920, *Chambre, Session Ordinaire*, pp. 1, 2 (No. 166).

unpleasant duty of raising much revenue by taxes; now the task had to be accomplished in some manner.

The turnover tax was introduced as the chief way in which this might be done.

Alternatives to the Turnover Tax. — It may seem curious that a country already burdened with a complicated system of indirect taxation, and committed to a reform of the tax system through the recent introduction of an income tax, should have fallen back upon the archetype of indirect taxes at such a critical moment. The curiosity grows when it is considered that the turnover tax has always, since its introduction in 1920, been under the handicap of having no group willing to stand up for it as an advance in taxation policy.

Every other branch of the tax system in France can be supported upon some grounds other than its mere ability to raise revenue. The income taxes have had behind them the solid support of an earnest band of fighters who have wished to remodel French fiscal policy along more "modern" and equitable lines. The registration taxes not only serve to bring in revenue, but aid the State in its attempts to assure the safety of contractual rights (*e.g.*, in the transfer of real property). The customs duties of course may not be levied primarily for revenue at all. Even for the numerous and sometimes petty special indirect taxes (*e.g.*, on sugar, wines, automobiles, articles of gold and silver) it may be claimed that they assist the State in guarding the consumer against fraud or carelessness, and in any case they are for the most part such a long-standing part of the French fiscal system that their friction has been considerably lessened. Monopolies help to fill the State's treasury, and also express a semi-socialist philosophy. But the turnover tax — of what use is it, save to raise money? This is practically the only virtue that any politician has been willing to grant it.

The problem of understanding why the turnover tax was introduced thus largely becomes one of understanding why other taxes were not called upon instead.

The income tax was relatively new (dating from 1914 and 1917). It had yet to *entrer dans les moeurs* of the French; they were un-accustomed to having the tax collector, however polite he might be, ask penetrating questions concerning such personal matters as wages received or paid, net business profits made, professional fees received, and bond coupons or dividend checks cashed. Income taxes take some time to collect; and the Government needed ready money. Furthermore, they take not only time, but skill. The tax units of the Government were badly disorganized, since 1914, as their ranks had been thinned of experienced men and new ones had much to learn before they could manipulate swiftly and accurately such a complicated fiscal tool as the income tax. This disorganization had allowed the taxpayers to get into the habit of thinking they did not have to pay the tax; only the *poires*, or simple-minded, would pay all they should.[3] Deputies of the Left, working for taxes on capital and income, recognized that the Tax Administration would have to be reorganized first, and were sometimes bitter in their denunciation.

"In reality," said Deputy Barthe, "taxes are not collected because the higher administrative officials have taken little interest in their collection, and because the various fiscal departments remain more than ever strangers to one another."[4] The association of *contrôleurs* of direct taxes was quoted as declaring, in April, 1919, that the orders issued to them for collecting the income taxes showed such ignorance of the situation that the State was losing billions of francs a year.[5] The Socialist group referred to a letter from the *contrôleurs* to Deputy Vincent Auriol in June, 1919, stating that the income taxes should yield twice as much as they were in fact doing.[6] Obviously there was a chance here for more revenue without any increase in the tax rates, but by the same token, higher rates might help but little until administrative reorganization was accomplished, which would probably take some time. Even so, Klotz asked for increases in the income tax rates of about 50 per cent, adding about 750 million francs to the Government's revenue.[7] François-Marsal, who succeeded Klotz before the new revenue plan was put through, agreed with his predecessor precisely on almost all the income tax proposals.[8] The Finance Committee of the Chamber, headed by Dumont, Bokanowski, and De Lasteyrie, asked nearly a billion and a half francs from these sources, which the Chamber itself cut down to about one billion.[9] Unfortunately, what was needed was not one billion, but eight or nine billions additional revenue, and proponents of increased income taxation could feel they had done well to get even a billion more from that source, in view of the fact that the income taxes might still be considered in some danger of abandonment altogether.[10]

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[3] Edgard Allix thought the introduction of the income taxes during war time was a great mistake, for this reason. *Cf.* his "Revue économique et financière," in *Revue Politique et Parlementaire*, Vol. 102, p. 296 (Feb., 1920).

[4] *D.P.*, 1920, *Ch.*, *S.O.*, p. 136 (No. 197).

[5] Deputies Barthe and Jean Felix, *ibid.*, p. 488 (No. 579).

[6] *Ibid.*, p. 439 (No. 535). *Cf.* also statements by Senators Sarraut and De Monzie in *D.P.*, 1920, *Sénat*, *S.O.*, pp. 57–60 (No. 162).

The various stamp and registration taxes might have borne a larger share than they did; but in their lack of any fiscal principle except that of getting the money where it might be found, many of them were no better than the proposed turnover tax. Some of them are relatively inelastic and there would be good ground for the fear that to get much more revenue the rates would have to be raised to absurd heights and even then might not produce the desired results. Klotz and François-Marsal were willing to see the inheritance tax rates increased, but the Chamber Finance Committee thought this unwise, since a section of the tax (*la taxe successorale*) had only recently been introduced. Even under Klotz's proposals, the additional revenue to be expected from the stamp and registration taxes fell short of three-quarters of a billion francs.[11] The Chamber did not alter this substantially.[12]

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[7] *D.P.*, 1920, *Ch.*, *S.O.*, p. 4 (No. 166).

[8] For François-Marsal's views, *cf.* his letter to the Chamber Finance Committee of Feb. 21, 1920, and the comment thereon by Allix, in his "Revue économique et financière," *Revue Politique et Parlementaire*, Vol. 102, pp. 431–446 (March, 1920).

[9] *D.P.*, 1920, *Ch.*, *S.O.*, p. 211 (No. 589), and *D.P.*, 1920, *Sénat*, *S.O.*, p. 66 (No. 201).

[10] *D.P.*, 1920, *Ch.*, *S.O.*, p. 211 (No. 589), and the proposal of Deputy the Marquis de Dion that the income taxes be abandoned, *ibid.*, p. 321 (No. 387). *Cf.* the resolution to this effect passed by the Assembly of Presidents of the Chambers of Commerce, two years later. Chambre de Commerce, Paris, *Bulletin*, 1922, p. 281; also *ibid.*, 1924, pp. 207, 208.

[11] *D.P.*, 1920, *Ch.*, *S.O.*, pp. 4 (No. 166) and 212 (No. 589).

[12] *D.P.*, 1920, *Sénat*, *S.O.*, p. 66 (No. 201).

The numerous special indirect taxes grouped under the name of *contributions indirectes* were open to much the same charges as were the registration and stamp taxes, though apparently they were more easily and thoroughly administered. Most of them, indeed, were but fragments of what might have been a turnover-tax system itself. Klotz and François-Marsal asked for nearly two billions a year additional revenue from them, most of the burden to be borne by the liquor taxes;[13] the Chamber Finance Committee cut the figure down below a billion and a half,[14] and the Chamber itself reduced it further, not far from the billion mark.[15] Such taxes were not likely to be popular. "At least these . . . consumption taxes [proposed in 1920] are not especially wretched," conceded Deputy Boissard. "And that is certainly the maximum of praise that can be bestowed upon a consumption tax [*Très bien! très bien!* from the Chamber]."[16]

Customs duties could undoubtedly have furnished more than they did; their yield lagged far behind that of the other branches of the French tax system, in relative increase.[17] But so many non-fiscal matters were bound up with customs rates revision that a government needing more money and needing it at once could not rely on this source. Indeed, a drastic decree prohibited absolutely a large group of imports for some time during 1920, in an effort to turn the balance of trade in France's favor. None of those in charge of finding new revenue in 1920 seem to have considered customs duties seriously; Klotz, for instance, planned to get only 17.5 millions additional from this source.[18]

The state monopolies offered a field for increased revenue, and Klotz proposed to get nearly half a billion francs more from postal, telephone, and telegraph operations; but the tobacco monopoly was not called on to produce important additions.

More might have come from the war-profits tax. Klotz proposed a retroactive supertax; François-Marsal countered with extension of the time limit; and the collection, "scandalous,"[19] could be improved. But the tax was not a permanent addition to the State's resources.

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[13] *D.P.*, 1920, *Ch.*, *S.O.*, p. 4 (No. 166).

[14] *Ibid.*, p. 213 (No. 589).

[15] *D.P.*, 1920, *Sénat*, *S.O.*, p. 66 (No. 201).

[16] *Déb.*, 1920, *Ch.*, *S.O.*, p. 875 (April 12).

[17] *Cf.* Robert Murray Haig, *The Public Finances of Post-War France*, p. 338.

[18] *D.P.*, 1920, *Ch.*, *S.O.*, p. 4 (No. 166).

There remained, of course, various propositions for a direct levy on capital, whether in the form of a pure capital levy, a forced loan, or an extraordinary income tax. Klotz did have something like this in mind, for he proposed a *contribution extraordinaire* on increase of value of real property between 1914 and 1919 which the Chamber Finance Committee rejected on grounds of complication in administration, and slowness in yield.[20] The Socialists had a complete *contre-projet* outlined by which the additional revenue needed should come from heavier direct taxes on acquired wealth, with a true capital levy to come later.[21] But a glance at the political surroundings will reveal what a small chance such proposals had of being adopted. The elections toward the end of 1919 had cut down the strength of the old Left *bloc* (Radical Socialists and Revolutionary Socialists) in the Chamber from 173 to 43 seats, and they and their supporters could now control but 168 votes out of a total of 626. The center of gravity had shifted from the moderate Left to the Center. The senatorial elections, too, in January 1920, had taken some strength from the extreme Left. Add to this the appointment of François-Marsal as Finance Minister under the Millerand Cabinet succeeding Clemenceau's (in which Klotz was Finance Minister), and the chances for a capital levy of any sort vanished.

François-Marsal was a banker, director of the *Union Parisienne*, and the Paris correspondent of the London *Economist* noted that "he is admittedly animated with a desire to introduce several entirely new [*sic*] principles of taxation, which in their application must inevitably revolutionize the French fiscal system. . . . So far as can be gathered from his writings, M. Marsal is an advocate of a very substantial extension of indirect taxation, and a simultaneous suppression of the greater part of the direct taxation as at present imposed. . . . The French consumer . . . has to bear by far the greater part of the total burden, while the possessors of acquired wealth get off much more lightly than the corresponding class in Great Britain."[22] As it turned out, François-Marsal apparently did not play any greater part in the planning for new revenues than Klotz, or the Chamber Finance Committee, but his presence was of course discouraging to any capital-levy plan. Likewise, he could be counted upon to throw his influence toward indirect taxes, rather than to seek additional revenue from the income taxes. Just before his appointment as Finance Minister he had made a slashing attack on the new income taxes, as entirely unsuited to a country where the business men were not apt to tell the tax collector those things they hid even from their families. "Personal" taxes were anathema to him; "impersonal" taxes, striking things rather than people, should form the base of France's fiscal system.[23]

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[19] Allix, in his "Revue économique et financière," *Revue Politique et Parlementaire*, Vol. 102, p. 440 (March, 1920).

[20] *D.P.*, 1920, *Ch.*, *S.O.*, p. 212 (No. 589). Klotz also proposed an "enrichment tax," rejected by the incoming Finance Minister, François-Marsal.

[21] *Déb.*, 1920, *Ch.*, *S.O.*, p. 884 (April 12); full details in *D.P.*, 1920, *Ch.*, *S.O.*, p. 434 *et seq.* (No. 535). For other proposals to tax capital directly and decrease indirect taxes, *cf.:* Barthe's *proposition*, *D.P.*, 1920, *Ch.*, *S.O.*, p. 132 *et seq.* (No. 197); the plea of Aubriot, Levasseur, Rozier, and others for a *contribution patriotique; proposition* by Gay, Constant, and others, *ibid.*, p. 1051 (No. 852).

In theory, at least, he would prefer to return to the pre-war tax policy. In practice, he soon found that he could not.[24] However, he leaned as heavily as he dared upon the indirect tax part of the new fiscal program, proposing that the rate of the turnover tax be 1.5 per cent instead of the one per cent Klotz had suggested. Indeed, he had thought of raising the rate to 5 per cent on all retail sales, but decided this would involve too much difficulty in administration.[25] But his proposal was defeated; as finally passed, the turnover tax bore a rate of 1.1 per cent (the extra 0.1 per cent being for local government treasuries).

One helpful thing, it appears, might have been done had the French viewpoint been different. Real property is taxed heavily in the United States, and the farmers especially have no favored position; but in France the farmers (*paysans*) are — if any group is —

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[22] Jan. 31, 1920, p. 193.

[23] "Impôts réels ou impôts personnels," *Revue Politique et Parlementaire*, Vol. 102, pp. 13–26 (Jan., 1920).

[24] *Cf.* criticism by Allix, in his "Revue économique et financière," *Revue Politique et Parlementaire*, Vol. 102, pp. 297–300 (Feb., 1920).

[25] *D.P.*, 1920, *Ch.*, *S.O.*, p. 315 (No. 376).

the favored class when tax matters are discussed. Real property is subject to transfer (registration) taxes and to the income tax; but the transfer taxes, as noted before, may prove rather inelastic, and the income taxes are levied, of course, on rent and on agricultural profits — not on the capital value of the property. Furthermore, these income taxes have been far lighter than the other branches of the income-tax system. With stricter control and a more realistic basis for levy, the taxes on land and on the farmer in particular might have been made to yield far more than they have yielded. But the French legislators do not forget that it is the agriculturists' vote which counts in most cases. For this reason and others less political in nature,[26] the farmer has been spared, compared with other classes, when the unpleasant necessity of extracting money has arisen. There seems to be a real basis for such demonstrations as that of the shopkeepers of the rue Sainte-Honoré who closed their doors on February 4, 1926, in protest, declaring they were willing to make a voluntary contribution to a sinking fund, but demanding that the agriculturists be taxed more heavily first.[27]

Business Opinion. — From this rapid survey of alternatives, it is clear that the way was open for the introduction of the indirect tax supreme, a turnover tax on gross sales striking virtually every branch of business.

Such a development was further favored by the existing attitude of the business community toward taxation. To understand this it is necessary to go back two years.

On the last day of 1917 Parliament presented the country with a new tax bill — one of the few efforts along this line made during war time. Six months earlier the schedular income taxes had been voted, and as 1918 drew near it was felt that any additional taxation needed should come largely from indirect taxes. Accordingly the so-called "payments taxes" were introduced, consisting chiefly of a 10 per cent tax on luxury expenditures. They also included a light tax on all retail transactions in general, and a higher tax than formerly on receipted payments of any kind.[28]

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[26] *Cf. infra*, p. 93.

[27] *The Times* (London), Feb. 5, 1926.

[28] For technical details, *cf. infra*, p. 191 *et seq.*

These taxes did not work out well in practice. Their yield fell below expectations largely because the Administration was not equipped to handle the new levy.[29] The difficulty of distinguishing between retail and other sales for all kinds of objects pleased no one, and the luxury tax was thought by many to strike at the heart of Parisian commerce, which specialized in such transactions.

From this it might seem that the business community would be hard set against the extension and generalization of this form of tax, in the shape of a general tax on gross receipts. But the reaction was almost exactly the opposite. One finds Chambers of Commerce and other organs of business informing Parliament in 1920 that a general tax on turnover would be acceptable; and this feeling was apparently generated in part by the unpleasant experience with the payments taxes.

The answer to this paradox appears to be that the business community recognized that more taxation was inevitable, even desirable; that direct taxes, for reasons touched on above, should not be increased; and that the payments taxes, by their very defects, had revealed the way to a proper system of new indirect taxation. Thus, they argued, if the troublesome distinction between retail and other sales could be abolished, the tax field might be widened, the rates kept low, and the tax collector dealt with more simply; if the tax were so widened as to include agricultural sales, the farmer might be made to bear more nearly a fair share of the burden; if the luxury tax were abolished, a great check upon one of the most important branches of French business might be removed. The business men who advocated a general sales tax were counting on getting the above favors in return — an important thing to recall when reading some legislator's statement that since the business interests themselves had sponsored the turnover tax they should not now denounce it. Also, there is some reason to believe that these business interests represented the larger concerns, rather than the host of small tradesmen and manufacturers.

As early as January, 1918, when the luxury tax had just started in life, the Chamber of Commerce of Paris informed the Finance Minister that the rate of this tax should be lowered, or measures taken to change its incidence (a matter about which no one, probably, was very clear), warning that there was danger of the *de luxe* industries and tradesmen moving out of France.[30] An assembly of ninety-eight presidents of Chambers of Commerce from all parts of France drew up a resolution in March, 1918, declaring that:

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[29] F. J. Combat, *La Taxe sur le chiffre d'affaires*, p. 14.

> The Assembly, considering that France draws most of her prosperity from luxury articles;
>
> That after the war, the arrival of foreigners who will come to visit France would be of a nature to aid her economic recovery, if these industries were not crushed under the weight of new taxes;
>
> Considering that it is extremely difficult, if not impossible, to proceed in an equitable manner to distinguish the luxury industries, and that the collection of the tax can not proceed normally;
>
> Protests against the high tax striking luxury articles, and against the classification which has been adopted;
>
> However, taking into consideration the pressing need the State has of resources, it asks at least that the tax on luxury articles be applied only for the duration of the war.[31]

The *Bulletin* also noted that protests were coming from *syndicats* of workers in the *de luxe* industries.[32]

The Chamber of Deputies proved amenable, and voted to abolish the luxury tax, March, 1919, by a majority of 124, but the Senate refused to concur. The Assembly of Chambers of Commerce applauded the deputies' action.[33] When the time came in 1920 to consider seriously the advisability of a general turnover tax, the Chamber of Commerce still held out against a continuation of the luxury tax, stating that it "will place honest and law-abiding business at a disadvantage with respect to its less conscientious competitors, and will place our national production in a very unfavorable situation with respect to our foreign competitors."[34] There seems good ground for the statement in the tax officials' organ, *Le Journal des Contributions Indirectes*,[35] that the Chambers of Commerce favored a low-rate general sales tax in the hope they would be relieved thereby of the 10 per cent luxury tax. In this they were to be disappointed.

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[30] Chambre de Commerce, Paris, *Bulletin*, 1918, p. 58.

[31] *Ibid.*, p. 378.

[32] *Ibid.*, p. 416.

[33] Chambre de Commerce, Paris, *Bulletin*, 1919, p. 459.

[34] Chambre de Commerce, Paris, *Bulletin*, 1920, p. 315; *cf.* also *ibid.*, p. 141.

[35] July 15, 1920, p. 358. For other protests against the luxury tax, *cf.* complaints of the Fédération des Commerçants Détaillants (in *La Journée Industrielle*, Feb. 6, 1920), and of the business men of Lyon (*ibid.*, April 3, 1920).

No better fulfilled were the business men's hopes that by a general tax on turnover the farmer might be drawn into the great game of supporting the franc. The farmer was not, and is not yet, touched directly by the turnover tax save in exceptional instances, but it is clear that this was one of the things hoped for by the business interests. As to the ability of the farmers to contribute, "the profits they have realized, thanks to high prices and scarcity of products, is a fact too well known to be insisted upon."[36] Note was taken of the relatively light income tax the agriculturists were called upon to pay,[37] and in proposing a general turnover tax, the Chamber of Commerce was insistent that farmers be not exempt.[38]

However, the business man was not wholly disappointed; he at least received the abolition of the troublesome distinction between retail and wholesale sales, for Parliament proceeded to tax both, instead of merely the former. The payments taxes — even apart from the *de luxe* branch — had stirred up much discontent through methods of assessment and collection, and these were partially remedied under the 1920 law. The Paris Chamber of Commerce had let loose this broadside against the payments taxes:

> The Chamber of Commerce,
>
> Considering that the tax on payments . . . has transformed all French merchants into so many fiscal agents and subjects them to a kind of continual *exercice* [inspection and control];
>
> That this was inevitable from the moment all sales at retail or for consumption became subject to a stamp tax, thus distinguishing them from wholesale sales; and that the Registration Administration had to interfere, for its control, in the details of all commercial operations;
>
> That this form of tax, as a result, imposes upon merchants — in addition to numerous chances of error in good faith — new and considerable expenses of personnel and office expenses, absolutely disproportionate to the possible yield of the tax;
>
> That there is thus reason to substitute for this tax another tax of a yield at least equal [note], and which will bring for the merchants no increase at

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[36] Chambre de Commerce, Paris, *Bulletin*, 1920, p. 154.

[37] *Ibid.*, pp. 328–330.

[38] *Ibid.*, pp. 138, 139.

all in general expenses, and no special bookkeeping, while still allowing the Treasury easy control;

Expresses the hope,

That for the said tax on payments (0.2 per cent) there may be substituted a tax of 0.05 per cent [the rate actually voted two years later was twenty-two times as great] on all sales, the more moderate rate being justified by the fact that the tax would be levied on all commercial operations, at the different stages of exchange of goods;

It being understood that qualified representatives of commerce and industry would be previously consulted as to methods of application.[39]

And in 1920 the Chamber of Commerce adopted a report protesting that the business men of France were willing to make monetary sacrifices to relieve the State's finances, but that "they wish, however, simple taxes, easy of application, easy to control, with a low rate, so that fraud may be avoided and the tax base extended, and thus the tax revenue increased. The taxes against which the most forceful protests have been made are the taxes created by the law of December 31, 1917."[40]

So the tide of business opinion, at least that section of it which was articulate, turned toward a general turnover tax as the way out, and this proposed levy, or some form of it, was agreed to by such bodies as the Fédération des Groupes Commerciaux et Industriels de la Seine,[41] the Confédération Générale de la Production Française,[42] the Fédération Nationale des Commerçants et Industriels Mobilisés,[43] the business men of Lyon,[44] and the Syndicat des Industriels Français.[45]

Such willingness to accept the turnover tax was undoubtedly based on the belief that the business man would in the end bear little or none of the tax. This belief was supported by the opinion expressed in Parliament that the consumer would pay, while the manufacturers and merchants acted as unofficial tax collectors.[46] As Deputy Lefebvre, himself a *commerçant*, put it: "Is it to commerce or to the consumer that you are appealing [for the new tax]? If to commerce, I declare, in the name of the *commerçants* whom

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[39] Chambre de Commerce, Paris, *Bulletin*, 1918, pp. 415, 416.

[40] Chambre de Commerce, Paris, *Bulletin*, 1920, p. 146.

[41] *La Journée Industrielle*, March 20, 1920. [42] *Ibid.*, March 28, 1920.

[43] *Ibid.*, March 30, 1920. [44] *Ibid.*, April 3, 1920. [45] *Ibid.*, April 4, 1920.

[46] For further discussion of French views on incidence, *cf. infra*, pp. 322–324.

I represent, that we do not accept this gift."[47] Deputy Artaud, president of the Marseille Chamber of Commerce for seven years, supported the turnover tax but remarked that the business world would much prefer a still broader levy, a form of payments tax which would strike wage payments and agricultural receipts. He ended with a strong attack upon the luxury tax.[48] Some of the other supporters of the new levy were inclined to be suspicious of the welcome business was giving it. "That which makes us a little distrustful of this new tax," said Deputy Boissard, "is the great enthusiasm with which it is welcomed in industrial and commercial circles. [*Très bien!* from the extreme Left.]"[49]

The turnover tax also had "that rare good fortune for a tax, a good press," in so far as the larger daily papers and the business spokesmen were concerned. *Le Figaro* saw in it *la taxe unique* for the future; *Le Matin* thought it would yield from 12 to 18 billions.[50]

The Turnover Tax before Parliament. — Backed by the feeling that Parliament could not resist the appeal for a general turnover tax, for the reasons outlined above, Klotz overcame the fear of injustice and burden on the consumer which he had warned against in 1917[51] when restricting the "payments taxes" to retail sales, and introduced such a measure among the lengthy list of tax increases demanded in his *projet* for the creation of new fiscal resources. He devoted little space to explaining the new tax, setting it forward in an almost casual manner, noting that Germany had levied a similar tax by the law of June 26, 1916, improved upon by the law of July 28, 1918, and that Thierry, Finance Minister in 1917, had tried to introduce the idea into France without success.[52]

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[47] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1259 (April 23).

[48] *Ibid.*, pp. 939–943 (April 14).

[49] *Ibid.*, p. 874 (April 12).

[50] Cited by Allix, in his "Revue économique et financière," *Revue Politique et Parlementaire*, Vol. 102, p. 442 (March, 1920).

[51] *Cf.* Dalloz, *Répertoire pratique, année 1918, 4ème partie*, p. 20.

[52] *D.P.*, 1920, *Ch.*, *S.O.*, pp. 4, 27, 28 (No. 166). *Cf.* also Thierry's *projet*, *D.P.*, 1917, *Ch.*, *S.O.*, pp. 865, 866, 877, 878, 882, 883 (No. 3452). Thierry proposed a rate of one-tenth of one per cent on all non-retail sales of tangible objects by business men, with 5 and 10 per cent rates on retail sales. Complete exemption from the retail tax was to be granted food products, heat and light, construction materials, farm supplies, state-monopolized articles, and exports. Imports going to consumers were to be taxable.

François-Marsal, the new Finance Minister, was even more enamoured of the idea than Klotz, and the Finance Committee of the Chamber regretfully decided that "no other tax than the tax on turnover can procure the immediate and enormous revenue which the State needs. . . . In times of crisis we call upon the consumption taxes."[53] Both of the Finance Ministers and the Committee stressed the "welcome" given to the proposal by the business world. The Committee did, however, bring the rate down from the 1.5 per cent proposed by François-Marsal, to the one per cent originally advocated by Klotz.

What, then, could a deputy do in the puzzling days of April, 1920? He was prodded with the stick of financial necessity and urged to hurry, above all else. "Each hour of useless discussion or futile, prolonged debate costs one million francs," he was warned by Charles Dumont, reporter-general of the Chamber Finance Committee.[54] As 1920 opened, France was faced with a monthly treasury deficit of 1,600 million francs, he was told by François-Marsal, and at the end of January the State had available at the Bank of France only 1,700 million francs.[55] He was presented with a disturbing estimate of revenues and expenditures for 1920 (in millions of francs):[56]

Expenditures	
Normal expenditures	19,113
Extraordinary expenditures	6,526
Budget d'outillage	951
Deficits of special accounts	3,000
Reconstruction, pensions, and war claims expenditures	22,000
Total	51,590

Revenues	
Direct taxes (1919, estimated)	1,350
All other permanent taxes (1919, estimated)	8,367
Increase in yield expected during 1920	1,000
War-profits tax and supertax	1,350
Sale of war stocks	3,000
Total	15,067
To be paid by Germany[57]	22 000
Total revenue	37,067
Deficit	14 523
New taxes, approximately	8,500
Balance to be covered by loans	6,023

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[53] *D.P.*, 1920, *Ch.*, *S.O.*, pp. 214, 242 (No. 589).

[54] *Déb.*, 1920, *Ch.*, *S.O.*, p. 887 (April 12).

[55] *Ibid.*, p. 955 (April 14).

[56] *Ibid.*, p. 887 (April 12).

[57] "Ultimately, let us hope." — Deputy Boissard, *ibid.*, p. 873 (April 12).

The Chamber was, then, asked to pass enough new taxes to balance the "ordinary budget"; the extraordinary budget was to be partially covered from exceptional sources of revenue, and Germany was relied upon to furnish the 22 billions for war damages. True, the new Government thought it could cut the estimated expenses by 8 billions, thus leaving a small "surplus," but as events showed, and as probably most students of the situation realized, this hope was indeed only a hope.

As the debate went on, it became apparent that the turnover tax was assured of passage. No opposition came from the conservative groups, and the Radicals (less radical than the Socialists) were willing to accept it as distasteful but necessary medicine. Renard, speaking for the Radical and Radical-Socialist group, outlined his theory of taxation — ask of taxes on necessities only the minimum, and instead strike capital by personal taxation — and then admitted that the proposed turnover tax, although an *impôt de consommation*, promised such ease of application and such a large yield that it had to be voted.[58] Herriot, destined in 1924 to be one of the leaders of a party victorious at the polls partly through a campaign promise to abolish the turnover tax, cautiously admitted that he would like to see the new tax tried out.[59] Bokanowski, assistant reporter of the Finance Committee, said frankly that "we do not advocate the turnover tax for theoretical reasons, but as *un impôt de nécessité, un impôt inévitable*. . . . I shall not discuss . . . the justice or the equity of this tax from a fiscal or philosophic point of view. . . . It is a tax which is forced upon us by the troubles of these times. We hope that it may some day disappear from our fiscal *arsenal*."[60]

With considerable foresight, Loucheur remarked that "this turnover tax, considered today as a universal panacea, may some years from now be disgraced, and a clamor raised for other taxes," but he added, "at the present time, it is necessary to take whatever is nearest at hand." [61]

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[58] *Ibid.*, p. 945 (April 14).

[59] *Ibid.*, p. 995 (April 15).

[60] *Ibid.*, p. 1260 (April 23). *Cf.* also the opinion of Allix at the time. He thought the turnover tax should be voted, but only upon the condition that it was clearly realized that "it is an extremely poor tax condemned by all historic precedents, that we must submit to it for the time being, and that it must be decreased as soon as the reorganization of our fiscal administration gives us more freedom in our choice." "Revue économique et financière," *Revue Politique et Parlementaire*, Vol. 102, p. 443 (March, 1920).

As François-Marsal pleaded, "Everything, to my mind: doctrines, personal ideas of propriety (*convenances personnelles*), even the most thoroughly-held opinions, must be neglected in face of the necessity, urgent and arbitrary, of meeting the demands of the Treasury." [62]

Only the extreme Left of the Chamber held out against the turnover tax. The Unified Socialists on the Finance Committee drew up an alternative plan of taxation by which the money necessary to balance the normal budget would come from additional taxes on capital and income, in place of relying to such a large extent upon indirect taxation.[63] This the Finance Committee rejected by a large majority. Vincent Auriol, one of the advocates of the alternative scheme, attacked the turnover tax bitterly. He went into ancient history, calling attention to the fate that had befallen the *centesima rerum venalium* of Roman times, the *alcavala* of Spain, and the gross-receipts tax levied under Philippe-le-Bel (in the thirteenth century).[64] He noted that in 1870–1871 Thiers had refused to back a proposal for a turnover tax and that the Chambers of Commerce were at that time opposed to such a levy.[65]

> Tomorrow, [said Auriol] when it will be too late, you will realize that from the fiscal, social, and economic points of view your turnover tax is *une taxe de ruine, de trouble, et de désordre.* [Applause from the extreme Left.] [66]

The tax would be especially hard on workers with large families, he added; it would be passed on entirely to the consumers; it would paralyze the spirit of enterprise of those firms working on a large-turnover and small-profit-margin basis; it would crush the small *commerçant* and the middleman. Jèze was correct, thought Auriol, when he said that Klotz's *projet*, although little enough democratic, had been amended in a plutocratic spirit.[67] The Socialists were opposed to the method of taking the taxpayers' money "insidiously, by small and repeated levies, not immediately perceptible, thanks to ingenious methods of fiscal waste, but without taking account of personal ability to pay, and risking on the contrary further demands upon those who possess less and consume more."[68]

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[61] *Déb.*, 1920, *Ch.*, *S.O.*, p. 925 (April 13). [62] *Ibid.*, p. 955 (April 14).

[63] *D.P.*, 1920, *Ch.*, *S.O.*, p. 434 *et seq.* (No. 535).

[64] For other brief sketches of turnover-tax history, *cf. Documents Parlementaires*, 1922, *Sénat*, *Session Extraordinaire*, pp. 33, 34 (No. 624), and N.-Gh. Popovici, *L'Impôt sur le chiffre d'affaires*, pp. 17–30.

[65] *Déb.*, 1920, *Ch.*, *S.O.*, p. 881 (April 12). [66] *Ibid.*, pp. 1265, 1266 (April 23).

Blum declared that nine billions of additional revenue could be raised by higher rates on the income and inheritance taxes and by an *impôt annuel sur le capital.* A true capital levy could come later to care for expenditures outside the normal budget. But the Chamber refused to follow this lead. Impressed by the arguments on the difficulty of levying such taxes, and thoughtful of the Treasury's need for ready money, it refused to consider the Socialist counter-proposal, 402 to 201, on April 15, and eight days later voted 496 to 97 to accept the key article of the new turnover tax. It had the feeling that it was by this act assuring France's financial salvation, for Dumont, reporter-general of the Finance Committee, had expressed the firm conviction that "we shall have the necessary resources to cover in 1921 the expenditures represented by what remains of the extraordinary budget [not including war claims, etc., to be paid by Germany] when it is merged with the normal budget, without having to raise in any notable degree the rates of the taxes we are proposing to you, and without having to create new taxes."[69] Had the Chamber realized that for the next six years they were to be asked again and again for higher tax rates and additional taxes, and that the turnover-tax rate was destined to be almost doubled, they might have given more serious consideration to the heavier burdens proposed by the Socialists. Furthermore, it must be remembered that by far the largest part of the debates that dragged along through April was not concerned with the turnover tax. The whole French tax system was being altered to some extent, and deputies who had lived through a two-hour debate on the advisability of taxing gamekeepers (total yield, 1920, 904,160 francs), or had mastered the intricacies of the income-tax schedules, may have had little power of resistance left when the turnover tax was finally reached, near the end of the struggle.

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[67] *Ibid.*, p. 883 (April 12).

[68] *D.P.*, 1920, *Ch.*, *S.O.*, p. 434 (No. 535).

[69] *Déb.*, 1920, *Ch.*, *S.O.*, p. 887 (April 12). *Cf.* also Klotz's optimistic proposal to create a special treasury account into which budgetary surpluses could be put. *D.P.*, 1920, *Ch.*, *S.O.*, p. 5 (No. 166).

Once the first article of the turnover tax was passed, the Finance Committee, backed by the Government, had little trouble getting the rest of the plan through, except for the luxury-tax rates. Even here the vociferous opposition of deputies representing commercial interests was overcome through threats that if the luxury taxes were not passed, something worse — an increase in the direct taxes — would have to be substituted.[70]

The *projet* went back and forth between the Chamber and the Senate several times before it became the law of June 25, 1920, but in the end the turnover-tax section emerged virtually unchanged from the Chamber Finance Committee's draft. The Senate was partial to François-Marsal's plan of getting six billions or more from the turnover tax by fixing the rate at 1.5 per cent,[71] instead of the Chamber's one per cent. It was not blind to the inconveniences of the new tax; but it felt that the Chamber was too optimistic. Not 8.5 billions of new taxes, but nearly 10 billions were needed, for 1921 at least. To this end not only should the turnover-tax rate be raised, but also those of the income and liquor taxes. "It is time to create once and for all the means for our financial rehabilitation. Then we shall need only to retouch existing taxes, if necessary, and to control them strictly." [72] But the Chamber had its way finally as to the tax rate. Other modifications made before the bill became law were relatively unimportant.

Early Years of the Tax. — The year 1920 was an extremely troubled one for France. There was a coal shortage, a railway strike, a rise in prices and a subsequent sharp fall, and an economic depression that grew acute as the year closed. The turnover tax did not make the situation any more cheerful, at least from a finance minister's point of view, for its yield was disappointing. Great things had been predicted for the new levy, and for a while it was thought the prophecies would be borne out. The correspondent of the London *Economist* as late as October, 1920, was writing "M. François-

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[70] *Cf. infra*, p. 157. [71] *D.P.*, 1920, *Ch.*, *S.O.*, pp. 1633, 1656 (No. 1032).

[72] *D.P.*, 1920, *Sénat*, *S.O.*, p. 66 (No. 201).

Marsal, the banker Finance Minister, is credited with having discovered a veritable philosopher's stone in the new tax on turnover. The yield is already proving unexpectedly satisfactory, and there appears to be every reason that it will produce a much greater amount than had been anticipated in the Budget estimates." [73]

But a week later the bad news had come out.

> Reports emanating from the Ministry of Finance and unofficially published in the newspapers, have led the public to believe that the new tax was proving a stupendous success. As a matter of fact, the contrary has so far been the case, as the official figures now show. The yield from the turnover tax for September was 292,791,500 francs compared with a budget estimate for the month of 700,000,000 francs. The official explanation is that on the one hand taxpayers have not yet become accustomed to the new form of impost, and that, on the other, the Government machinery for collecting it is still far from complete. . . . The general tendency towards [business] depression has been greatly accentuated during the week.[74]

And two months later:

> The growing difference between the expected and the actual yield from the tax on turnover . . . is beginning to excite some alarm. . . . There are rumors . . . that methods for "getting around" the new tax are being adopted in many transactions.[75]

Up to April, 1921, the monthly yield of the tax fell steadily.

Nor was its paucity of yield the only fault found with the new tax. Before the year was out, proposals were advanced for modifying it to make it more acceptable to the taxpayers themselves. Protests against the luxury-hotels tax [76] and against methods of collection [77] were heard, the latter being the forerunner of a long series of attacks on behalf of the smaller merchants who wished to be taxed on the basis of estimated turnover, thus freeing themselves from the necessity of keeping account books and showing them to inquisitive tax collectors. These attacks were finally successful in 1924.

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[73] Oct. 9, 1920, p. 551.

[74] *Economist*, Oct. 16, 1920, p. 588.

[75] *Economist*, Dec. 18, 1920, p. 1079. But the reports in the *Bulletin de Statistique* refused to recognize outright fraud as a reason for poor yield, except to note "the difficulty of adapting a new tax to the public." For its list of reasons for the poor yield, *cf.* issues of Nov., 1920 (p. 1085), and Dec., 1920 (p. 1247); and for an optimistic forecast, that of Oct., 1920 (p. 899).

[76] *D.P.*, 1920, *Ch.*, *S.E.*, p. 4 (No. 1534).

[77] *Ibid.*, pp. 239, 261 *et seq.*

The Chamber took under consideration, in 1921, a bill designed to amend the turnover tax.[78] Most of the proposals did not radically change the nature of the tax, but were concerned with exemptions of various kinds urged by representatives of special interests — hardly encouraging to a finance minister. The 1921 budget had been voted without any important tax increases, and it was obviously dangerous to undermine the already disappointing yield of the turnover tax. The bill never was voted as a whole, but as the years went by, sections of it passed the Chamber-Senate gamut and were enacted into law.[79]

As yet, there was no concerted movement to have the tax repealed. There was a feeling that, given time, it would show itself productive. Evasion, fraudulent and otherwise, was apparently fairly widespread.[80] Collection of the tax had been made without any serious attempt to check evasion.[81] As reorganization of the Tax Administration progressed, as business activity revived, and as superoptimistic estimates of yield were forgotten, it was possible that the turnover tax would find more general acceptance.

But Doumer, who had succeeded François-Marsal as Finance Minister in the new Briand Cabinet, was not content merely to hope. He had a 2.5-billions gap to fill in the 1922 budget. It would take too long to get more new taxes under way, he declared; what existing tax, then, should be raised? Once more the process of elimination was resorted to, and once more the turnover tax was the only important one to withstand the procedure. The income taxes would doubtless be the keystone of later budgets, said Doumer; but to raise the rates again, on the heels of the 1920 increase, would be to imperil the future of these taxes, which, though the most just, were the most difficult to administer. The registration and *contributions indirectes* rates were already so high that no important appeal to them could be made. The conclusion was inevitable: double the rate of the turnover tax. Its effect on prices would not be greatly noticeable. Doumer said:

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[78] Submitted by the Government in *D.P.*, 1920, *Ch.*, *S.E.*, pp. 400–404 (No. 1760). This contained proposals to tax coöperatives and real estate dealers, to exempt domestic-industry workers, and to alter the import tax. As it went on through the Chamber and Senate many other clauses were added.

[79] *Cf.* chronological study, *infra*, Chap. X.

[80] *Cf.* *D.P.*, 1921, *Sénat*, *S.E.*, p. 17 (No. 796), Chéron report on 1922 budget; *D.P.*, 1921, *Ch.*, *S.O.*, p. 1709 (No. 2743), resolution by Bokanowski and others, urging proper collection of existing taxes; and London *Economist*, May 14, 1921, p. 974.

[81] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1 (No. 2002), report on 1921 budget *projet*.

> At a time when oscillations in interest rates, risks of competition, instability of the exchanges, sudden shifts in production, and uncertainty of external markets cause continual variations in the price level, the increase in prices due to the tax, very small compared to the total shifts in prices, is lost in the general fluctuations of economic factors. . . . The mechanism of this tax is simple enough so that an increase in rates produces immediately and automatically a corresponding increase in receipts, without the necessity of planning for supplementary measures of control, or a corresponding increase in the expenses of personnel and equipment of the Administration.[82]

The proposal never reached the Chamber. The Chamber Finance Committee turned it down unequivocally, even though Doumer modified his request, asking for only a 50 per cent increase in the rate. The Committee was, indeed, hostile to any new taxation, but especially did it think a higher turnover-tax rate unjustifiable, pointing out that a tax which pyramided itself as this one did could work well only with a low rate. After such a grave business crisis as that of 1920–1921, industry and commerce were entitled to a sort of fiscal moratorium.[83] The Senate Committee, too, was content to let Doumer's proposal die a silent death. In doing this Parliament was backed by business opinion; an Assembly of the Presidents of the Chambers of Commerce opposed any raise in the rate, and the Paris Chamber suggested that past sins of omission be expiated by subjecting farmers to the turnover tax, now that the Government found it needed more revenue.[84]

Indeed the question threatened to be, not whether the rate should be increased, but whether the tax should remain at all. Deputies of the Left kept up an attack against it, submitting several bills which proposed its abolition with substitution of some form of direct taxation.[85] But the more responsible element in Parliament realized clearly that with the 1923 budget facing a large deficit, it was idle to think of abolishing the tax, though one should keep in mind that this ought to be done as soon as fiscal conditions permitted. The whole tone of Senator Bérenger's report on the *projet* to amend the turnover tax, from which the above sentiments are taken, was one of regret, but firmness. He noted that the *républicains* in Parliament had for a long time condemned indirect taxes as anti-democratic, but he believed that Parliament had been actuated by financial necessity in 1920, not from a desire to favor the rich, as some (Caillaux among them) were charging.[86]

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[82] *D.P.*, 1921, *Ch.*, *S.O.*, p. 2282 (No. 3068), Doumer's *projet* for 1922 budget.

[83] *Ibid.*, pp. 2448, 2456 (No. 3160).

[84] Chambre de Commerce, Paris, *Bulletin*, 1921, pp. 1121–1124, 1273.

The business world was apparently convinced that the turnover tax was necessary,[87] although there was a strong undertone of regret that it had not shown itself to be the simple, easy affair that so many had thought it might be. Troublesome inspection by the tax agents was made necessary by widespread fraudulent evasion.[88] Bérenger remarked that he had received more than 100 delegations of business men and others, clamoring for the repeal of the tax, but that they had always realized in the end that its yield was indispensable to the State.[89] The Chamber of Commerce group seemed to be far more interested in attacking other branches of the tax system, and content with mere modification of the turnover tax; witness the resolution adopted by the Assembly of Presidents, calling for the abolition of the personal income taxes, and a return to the pre-war system of "impersonal" taxation.[90]

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[85] *Cf. D.P.*, 1922, *Ch.*, *S.O.*, p. 684 *et seq.* (No. 4327), proposal by Aubriot and others; p. 983 *et seq.* (No. 4428), proposal by Barthe and Félix to exempt all but *sociétés* from the tax; p. 1313 *et seq.* (No. 4427), proposal by Constant and others; p. 1600 *et seq.* (No. 4670), proposal by Archimbaud and Antérion.

[86] *D.P.*, 1922, *Sénat*, *S.E.*, pp. 33, 35 (No. 624).

[87] *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, Nov. 14, 1922, in which a strong protest is made against abolishing the turnover tax, and a willingness to bear even more taxation is expressed.

[88] Chambre de Commerce, Rouen, *La Question de l'aménagement de l'impôt sur le c.a.*, *Rapport*, 1923, pp. 1–6.

[89] *D.P.*, 1922, *Sénat*, *S.E.*, p. 34 (No. 624).

[90] Chambre de Commerce, Paris, *Bulletin*, 1922, p. 281. *Cf.* also the speech of President Roget of the Paris Chamber, Oct. 5, 1922, at a dinner given in honor of the

Furthermore, the acute disappointment in yield was being overcome by more conservative estimates, and the gradual increase in revenue. De Lasteyrie, the Finance Minister who followed Doumer, forecast the yield for 1923 at 2,500 million francs (in contrast with the 2,900 million and 3,045 million estimates that had been made for 1921 and 1922 respectively), and from the low-water mark in monthly yield touched in July, 1921, the turnover-tax returns mounted fairly steadily, increasing 34 per cent by July, 1922. This was not a result of rising prices, for both the wholesale and retail price indices were lower than in July, 1921. It was partly a result of increased economic activity, as the "industrial production" index had climbed nearly 60 per cent within a year.[91] Doubtless too, the Tax Administration was becoming more able to cope with the situation.

Even though the yield had increased, and kept on increasing throughout 1923 (now aided by a rising price level as well as increased industrial activity), the fiscal situation as a whole was growing more serious. De Lasteyrie had thought it wise to spare the country further taxation in 1922, at the expense of tolerating a sizable budget deficit, but as the following year opened he realized that more revenue was imperative. What tax could best be raised? Probably recalling the reception given Doumer's proposal to get increased revenue almost entirely from the turnover tax, he hesitated to concentrate too heavily on this favorite of finance ministers. Nor was he a staunch partisan of the income taxes. A simple solution seemed to be to raise practically all tax rates by 20 per cent (the *double décime*, against which a long fight was waged), avoiding any charge of discrimination. This he did, but the outburst against the proposal [92] doomed it to an early death. Bokanowski, speaking as reporter-general for the Chamber Finance Committee, was still apologizing for the turnover tax as *un impôt d'urgence, un impôt de salut public*, which could take no place in

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Finance Minister (De Lasteyrie) and the Commerce Minister (Dior). Roget attacked bitterly the "inquisition" of the income taxes and De Lasteyrie showed considerable sympathy with his remarks. *Ibid.*, p. 868 *et seq.*

[91] *Cf. infra*, p. 56.

[92] *Cf.*, *e.g.*, protest of Paris Chambre de Commerce, in its *Bulletin*, 1923, pp. 30, 98, 351, 352.

the fiscal legislation of future and happier times,[93] and he asked how it could possibly support an increase in rate, with the consequent effect upon the cost of living.[94] Indeed, the Committee was against the whole idea of the *double décime*, declaring that as long as so much fraud existed in the income and inheritance taxes, it was useless to raise tax rates.[95] Business circles, too, specifically protested against any general rate increase which would include the turnover tax.[96]

Meanwhile important reforms of the turnover tax were gathering momentum. The true *forfait* system of assessment for the small taxpayer, whereby he could be relieved of keeping a record of his gross receipts for the tax collectors' purposes and instead be taxed on an estimated basis, was destined to be realized in 1924. Already, too, there were insistent demands for the "replacement taxes" by which certain commodities (*e.g.*, meat, coal, fertilizers) would be exempt from the turnover tax and instead be subject to a gross-receipts tax of a somewhat higher rate at one of the early stages in the economic life of the product (*e.g.*, slaughtering, sale by mine, or by manufacturer).[97] The bill to amend the turnover tax had by this time come back to the Chamber, somewhat mutilated since its introduction in 1920 and subsequent discussion by both houses.[98] And Herriot, who had been willing to "experiment" in 1920, now joined with Loucheur and others in praying the Government to submit some kind of plan whereby the turnover tax might be abolished. They were struck by what they termed its "brutal repercussions upon the cost of living."[99]

The Double Décime *and the 1924 Elections.* — In 1924 a general election was due. By this time the attitude of various groups toward the turnover tax had become fairly well defined.

The business community as represented by the Chambers of Commerce was willing to have the turnover tax retained, but was resolutely opposed to any increase in its rate.[100] The smaller tradesmen and the mass of consumers, as represented by the deputies of the Left, wished the levy abolished at once, or at least transformed into a series of replacement taxes. The Government, as represented by any of the several finance ministers who succeeded each other, was just as determined that the tax could not be dispensed with, and wanted to see the rate increased.

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[93] *D.P.*, 1923, *Ch.*, *S.O.*, p. 1061 (No. 5913). [94] *Ibid.*, p. 306 (No. 5545).

[95] *Loc. cit.*

[96] Open letter sent to De Lasteyrie by president of Paris Chambre de Commerce. *Bulletin*, 1923, p. 30.

[97] *Cf. D.P.*, 1923, *Ch.*, *S.O.*, p. 650 *et seq.* (No. 5856), bill by De Cassagnac and other deputies; also *infra*, Chap. V.

[98] *Ibid.*, p. 649 *et seq.* (No. 5855). [99] *D.P.*, 1923, *Ch.*, *S.E.*, p. 448 (No. 6675).

First blood was drawn by the Government, when the *double décime*, striking the turnover tax as well as others, was put through in March, 1924, under the guidance of Poincaré (Prime Minister) and De Lasteyrie. The latter explained regretfully that "there is not available any new tax with a large yield," and in any case "to create any tax the collection of which would be delayed by lengthy work of assessment or too complicated methods of collection would be to fail in one of our aims."[101] Once again, ready money was required. The simple pressure of need for revenue won over the Chamber Finance Committee; almost belligerently it reversed its 1923 stand, saying, "This is not the time for theoretical controversies, for academic discussions, for jousts among systems and doctrines."[102] With as little reference as possible to the turnover tax, the Committee approved the *double décime*. The Chamber itself was not so tractable. It wished to suspend the application of the *double décime* as concerned the smaller taxpayers until a law granting them a true *forfait*, or estimated-tax system was passed. Finally it had to be content with the Senate's promise to look into the matter carefully, though the *double décime* did not pass until five weeks of stormy debate had followed its original presentation to the Chamber. The Senate Committee, represented by Bérenger, recognized the measure as severe, but was glad that the "thunderclap" of January 14, 1924, when the franc broke sharply to 4.38 cents, had brought the Government to its senses. It realized that the *double décime* would, if anything, aggravate the existing unequal distribution of burden which bore most heavily upon the indirect taxes, and consequently, the poor. As for the federations or unions of industrialists and merchants which were endorsing the *double décime* — they merely counted, declared the Committee, on passing the burden on to the consumer in a time of economic activity. Let a business depression come, and they would complain, just as they did in 1921.[103]

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[100] Indeed, when they were faced with the knowledge that at least some important taxes would have to be increased, they chose the income taxes rather than the turnover tax. Chambre de Commerce, Paris, *Bulletin*, 1924, pp. 210, 211.

[101] *D.P.*, 1924, *Ch.*, *S.O.*, p. 138 (No. 6972).

[102] *Ibid.*, p. 151 (No. 6980).

On March 22, 1924, the *double décime* became law, and the turnover-tax rate was altered for the first time. Formerly 1.1 per cent, it was now 1.3 per cent (only the State's share of the rate was increased). The luxury rates, too, were raised, from 3 and 10 per cent to 3.6 and 12 per cent.

As election day drew near, the Radicals and the Socialists, united at least for the campaign period, harangued the taxpayers on the evils of the high cost of living, the 20 per cent increase in taxation, the threatened suppression of State monopolies, the unpopularity of the turnover tax, and certain non-economic issues such as the resumption of diplomatic relations with the Vatican.[104] They were rewarded with an unexpectedly large majority, and Poincaré gave way to Herriot. But hardly were elections over when it became clear that the new Government would not be able to fulfill its promise to repeal the turnover tax. On May 21 Herriot and Painlevé announced that a strict budget balance was imperative.[105] If this meant anything, it meant increased taxation.

The turnover tax had made itself indispensable by increasing its yield enormously. In July, 1924 (with the aid of the new rates) it produced 380,330,000 francs, as against 258,587,000 the year before, and 146,393,000 in 1921. Apparently, methods of collection were being improved;[106] the measures for suppressing fraud which so agitated the Chamber Committee when the *double décime* was being debated were directed at the income taxes — especially the securities income section of the general income tax — and not at the

[103] *D.P.*, 1924, *Sénat, S.O.*, pp. 127-132 (No. 160).

[104] As the correspondent of the London *Economist* saw them, these were the chief issues of the campaign. *Economist*, May 17, 1924, p. 1008.

[105] *Ibid.*, May 24, 1924, p. 1055.

[106] Although Viollette, reporter-general for the Chamber Finance Committee, hazarded the guess that if there were no evasion of the turnover tax, the yield would be 7 or 8 billions instead of 4 billions. *Déb.*, 1925, *Ch.*, *S.O.*, p. 1479 (Feb. 28).

turnover tax. Also the small merchants had at last been given their cherished *forfait*, or estimated-tax-base, system of assessment and collection. The bill to amend the turnover tax, with nearly forty proposals of various kinds in it, reached the Senate again,[107] and parts of it at least seemed to have a good chance of becoming law.

Perhaps all these facts together reconciled the Left to the maintenance of the tax, though some of the deputies continued to submit bills urging its abolition.[108] Whatever the reasons, Clémentel, Finance Minister of the Herriot Government, had to ask for an extension of the field of the turnover tax instead of allowing its abolition. In his *projet* for the 1925 budget he recommended that sales for export, hitherto entirely exempt (with unimportant exceptions) be made subject to the turnover tax. In return for this favor he was willing to see certain necessary foodstuffs — eggs, milk, grain for bread, and animals for slaughter and the resulting fresh meat — exempted from the tax. He also promised to push forward studies of possible "production taxes" to replace the turnover tax on coal and other commodities. For the greater part of the inevitable new taxation he appealed to the direct and registration taxes, thus making at least one step in the direction indicated by the election results.[109]

Clémentel's proposed exemption of foodstuffs swung open the door so tightly closed for four years, and a host of other ideas for exemption made their appearance logically and naturally. It was the beginning of a breaking-down process which was to result in the turnover tax becoming a "turnover-tax system" composed of the turnover tax proper and a number of special replacement or "production" taxes, not to mention the import tax (already existing) and the export tax.

The Chamber Finance Committee seized on Clémentel's proposed exemptions and widened them to include all sales at retail by those having not more than ten employees, and all transactions in certain foodstuffs, upon which replacement taxes were to be levied.[110]

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[107] *D.P.*, 1924, *Sénat*, *S.O.*, p. 20 (No. 43).

[108] *Cf. D.P.*, 1924, *Ch.*, *S.O.*, p. 955 (No. 215), proposal by Aubriot and others, to suppress turnover and schedular income taxes, replacing them with a 20 per cent five-year levy on real property; *D.P.*, 1924, *Ch.*, *S.E.*, p. 139 (No. 703), proposal by Palmade and others to replace the turnover tax by a generalized system of "production taxes."

[109] *D.P.*, 1924, *Ch.*, *S.O.*, pp. 1387–1395 (No. 441).

The reporter-general explained to the Chamber at length the position its Committee had taken. "I do not need to draw up an indictment against the turnover tax. I fancy that you all have the same opinion on this matter and that for you it represents the most unpopular of all taxes."[111] The Committee had studied no problem more than that of the turnover tax, but had been forced to conclude that it could not be abolished entirely. The income taxes were already at their maximum yield. It was extremely difficult to raise the registration and stamp taxes appreciably. The other indirect taxes were no more suited for increases than was the turnover tax. Still, one could proceed with a gradual lightening of the turnover tax, by means of various exemptions. Nearly a million taxpayers would be exempted by the Committee's provision, and in three-fourths of the communes of France the turnover tax would become almost unknown. The replacement taxes were expected to help cover the loss incurred through this exemption.[112]

Exempting a million taxpayers was too much for the more sober element in the Chamber,[113] and the Committee had to revise its plan, which was then adopted by the Chamber as the most it could do at the time, after Blum (Socialist) had promised that "by next year, at least, we shall exempt . . . all retail commerce without exception or distinction."[114] Unfortunately for his hopes, it so happened that none of the retail-exemption plans was destined to reach the form of law. Retailers are taxable today, just as they were in 1920 and 1925.

The check to these exemption proposals came in the Senate Finance Committee. Not that this body lacked sympathy for turnover-tax payers, but the Chamber had disgorged an enormous fiscal bill, containing hundreds of articles, and there was good reason to wonder if sufficient thought had been bestowed upon most of them. One of the participants, Deputy Berthod, described the Chamber's travail:

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[110] *Cf. infra*, pp. 107, 108.

[111] *Déb.*, 1925, *Ch.*, *S.O.*, p. 1463 (Feb. 28).

[112] *Ibid.*, pp. 1463–1465 (Feb. 28). This expectation was probably not well founded; the Committee's program might well have resulted in a substantial decrease in revenue. *Cf. Journal des Contributions Indirectes*, March 1, 1925, p. 117.

[113] Although a score and more of amendments extending the exemption were submitted by others, only to be promptly quashed by the reporter-general. *Déb.*, 1925, *Ch.*, *S.O.*, pp. 1476, 1477 (Feb. 28).

[114] *Ibid.*, p. 1474 (Feb. 28).

> General discussion, by turns weighty and dramatic, fall of the franc, patriotic alarm and party prejudices, politics thrown into doctrinal discussions and jolting the Chamber out of deep backwaters; more calm discussion of the articles, weariness rather than contentment; morning sessions, afternoon sessions, evening sessions, night sessions; 380 distracting proposals, more or less rough, filing past, on civil law, commercial law, administrative law, seizin, founders' shares, matrimonial state, agricultural profits, plural-voting stock, turnover tax, alcohol, postal checks, gifts, corporation reserves, etc., etc.; from time to time a rapid skirmish at arms, ended by the monotony of a ballot approving the Committee; hostile vigilance of the opposition, constancy of the majority.[115]

The Senate Committee refused to pass anything hastily, yet it dreaded delaying the budget longer. Hence it advocated reserving, among other things, the articles on the turnover tax for some future date. The Chamber did not agree to this; the Senate Committee insisted,[116] its reporter-general recalling that the Chamber itself had passed the reforms by a narrow margin. The Finance Ministers — De Monzie had succeeded Clémentel, and Caillaux had succeeded De Monzie while the debates were going on — gave what time they could toward preserving the turnover tax from mutilation, but they were harried by more pressing fiscal matters. The final result of all the confusion was that a production tax and a slaughtering tax replaced the turnover tax on coal and meat, respectively, but the ambitious program of exemptions as well as the export tax failed to materialize.

The turnover tax had proved itself political dynamite, however. In the closing hours of the ordinary session of Parliament, in the early morning of July 13, 1925, when the Chamber Finance Committee finally bowed to the wishes of the Senate and of Caillaux, the Left of the Chamber still held out for its exemptions of foodstuffs and small retailers. Caillaux protested that he was not an enthusiastic admirer of the turnover tax, but that all its present revenue yield was needed, and he promised to present a profound reform of the tax within three months or so.[117] He won out, but only at the expense of wrecking the "Cartel" (combination of the Left parties) through gaining votes from the Center and the Right to make up for the implacable opposition of the Socialists.

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[115] "Chronique politique," *Revue Politique et Parlementaire*, Vol. 122 (1925), p. 479.

[116] *D.P.*, 1925, *Sénat, S.O.*, p. 992 *et seq.* (No. 402).

Caillaux never had an opportunity to carry out his promises of reform. His budget *projet* for 1926, submitted in July, contained no important changes in the turnover tax. For increased revenue he turned to direct taxes; shortly after this he and the rest of the Painlevé Cabinet were forced to resign. He had antagonized the Left, and his hold on the Right was very insecure.

Increases in the Tax. — This period marked the apex of the efforts to abolish the turnover tax. Its yield was now large — in 1925 it gave well over four billion francs — and the impossibility of abolishing it without calling upon similar indirect taxes for replacement or drastically raising direct tax rates was apparent. At the Radical Party's Congress at Nice, Deputy Bertrand Nogaro presented a report which gave little comfort to the turnover tax's opponents. "In effect," he said, "it can be clearly seen that . . . (*a*) there can be no question of abolishing the turnover tax without replacing it; (*b*) it can not be replaced by a direct tax of the same yield;[118] (*c*) the superiority of the substitution proposals is not evident from a technical point of view; (*d*) it is very much to be feared that the taxes destined to replace the turnover tax will in reality merely be added to it, as concerns the consumers."[119] Such doctrine gave excuses to conscience-stricken deputies to uphold the tax despite past campaign promises, as one Finance Minister after another came appealing for more revenue to be secured from whatever source seemed most convenient.

Painlevé was his own Finance Minister for a while. Then came

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[117] *Déb.*, 1925, *Ch.*, *S.O.*, p. 3459 (July 12).

[118] To Nogaro the commercial and industrial profits schedule of the income tax is as truly an indirect tax (in its effects) as the turnover tax. *Cf. infra*, p. 323.

[119] On the theory that the business men would not pass on to the consumer the relief from the turnover tax. "La Politique financière du parti radical," *Revue Politique et Parlementaire*, Vol. 125, p. 287 (Nov., 1925). *Cf. infra*, p. 131.

Loucheur, who succeeded in levying heavy tribute upon "acquired wealth" and asked for a great deal more, including an extension of the turnover tax to exports. His too-ambitious program caused his fall, and in December, 1925, Senator Doumer was again appointed Finance Minister.

Now, indeed, the electoral promises of 1924 seemed utterly hopeless of realization. Through 1925 the question had been: could the Socialists and their allies abolish the turnover tax, in whole or in part? But in the first half of 1926 they faced a counter attack. Fighting bitterly, they opposed what amounted to an increase in the turnover-tax rate, gained a temporary victory by wrecking a ministry on that dispute, and in the end had to yield even before Poincaré took control in the desperate days of July.

Doumer submitted his proposals for new revenue just as 1925 drew to a close. This was shortly after Loucheur had pushed through retroactive increases of the income taxes, and Doumer gave this as the reason for not asking more revenue from this source. He did more than that; unlike the previous Finance Minister, he stood up strongly for the principle of the turnover tax, and his proposed new levy, the "payments tax," was in reality a thinly disguised increase in the turnover-tax rate. Nothing else, he declared, would cause so little trouble to the taxpayers; more, it would be just.

> It is undeniable [said Doumer] that the total of his [the taxpayer's] expenses is in correspondence with his total ability to pay. . . . Just because commerce and industry may be overburdened by the direct tax, does one imagine that one will no longer have to count with the economic laws of incidence, and that the consumer will be sheltered from the inevitable repercussion of the [direct] tax? [120]

Still he recognized that the proposal was not altogether a happy one to make, for he declared the "payments tax" should be enacted only as a temporary measure, to be abolished as soon as conditions permitted. Two months later, while still clinging to his original proposal, Doumer declared he would go to the income taxes first for new revenue, if he had free choice; but the recent rate increases had removed that choice. The new "payments tax" would be only 1.2 per cent, and would not apply to retail or "consumption" sales. It should yield 3,800 millions per year.[121]

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[120] *D.P.*, 1925, *Ch.*, *S.E.*, p. 493 (No. 2332).

The Chamber Finance Committee was not convinced, though it accepted other of Doumer's proposals, including extension of the turnover tax to exports. The "payments tax" was voted down thirteen to eight, with six not voting.[122]

When the proposal came to the Chamber there started a battle which ended — for the time being — only in the downfall of Doumer and with him of Briand's Cabinet.

The Chamber opened its 1926 session on January 12, with a mild and optimistic speech from the temporary president,[123] and Herriot, elected permanent president, defended the republican form of government amid much applause; but as soon as he touched on concrete problems the trouble began.

> HERRIOT: It is necessary that the citizens consent to grant large resources to the State which has saved them. [Applause.]
>
> RENAUD JEAN: And while we are waiting, the turnover tax is doubled.[124]

Jean's remark signaled the stand upon which the Chamber was determined to resist all persuasion from the Government. Dumesnil, representing the Radicals and Radical-Socialists, outlined this attitude clearly:

> My friends and I do not systematically oppose all indirect taxes, as has sometimes been hinted. However, we wish that no recourse be made to them until the full yield of the direct taxes has been assured, until privileges, still too scandalous, have been abolished, and justice established in taxation. [Applause from the Left.]
>
> At this time, we shall be willing to turn to indirect taxes, if it is necessary, to supplement [the State's] resources, it being well understood that we shall select among the indirect taxes those which will not be taxes on general consumption, which we dread especially at present. [Loud applause from the Left.] . . .

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[121] *D.P.*, 1926, *Sénat*, *S.O.*, p. 65 (No. 76).

[122] *The Times* (London), Feb. 16, 1926.

[123] Who remarked: "For us, it is impossible that we should ever have regularity in our finances, because we know that we shall always do something, but we never know what that something will be." [Smiles from the benches.] *Déb.*, 1926, *Ch.*, *S.O.*, p. 1.

[124] *Ibid.*, p. 20. Doumer had first thought of doubling the turnover tax, but upon consulting the Council of Ministers decided to rely on a "payments tax" based on the Belgian model. *Ibid.*, p. 323 (Jan. 29).

> There are a certain number of us who, in the course of the last electoral campaign and during the preceding legislative sittings, fought especially against the turnover tax. Whatever may be the name with which one may adorn it at present, we remember that we have made promises; we intend to keep them and we shall keep them. When I say "we" I do not speak only for my friends on the Left. Among our colleagues on the Center and the Right, there are a large number who certainly think as I do, having made the same promises and adopted the same attitude during the last few years. . . .[125]
>
> You are correct when you say "It is a very simple tax, it is only necessary to give a twist of the screw, and the trick is done!" But if this twist of the screw must be given to those who are already heavily crushed, to the small merchants, to the workers, I am not in favor of it.

Deputy Bedouce added pithily, "It is a twist of the garrote." [126] Dumesnil recalled Caillaux's promise to provide some substitute for the turnover tax;[127] and now Doumer was going in the opposite direction.

Doumer protested that his proposal was really a step toward the production taxes for which the Chamber yearned, since retail sales would be exempt from the new "payments tax," and he hoped that in time the same thing could be done for the turnover tax.[128] But he could not overcome the conviction on the Left that if more money were needed, it could come from income taxes. The number of taxpayers in France, said Dumesnil, could be estimated at 14 or 15 millions; yet in 1924, for instance, only 30,000 taxpayers declared incomes of more than 100,000 francs.

> I shall allow myself to say [continued Dumesnil] . . . that in England, when a gentleman has had some trouble (*une histoire*) with the Tax Administration and is more or less suspected of fraud, he finds, upon arriving at his club, a refusal to shake his hand. I am not very sure but that in France, in many circles, one begins by asking such a person how he did it, so that one may copy his method. [Applause on the Left.]
>
> Deputy Tasso: In France, they make him honorary president of the club.[129]

[125] *Ibid.*, p. 238 *et seq.* (Jan. 26).

[126] *Ibid.*, p. 240. *Cf.* also remarks by Lamoureux (reporter-general), *ibid.*, pp. 276, 277 (Jan. 28).

[127] *Ibid.*, p. 242 (Jan. 26). Lamoureux and Marcel-Héraud also recalled this promise, which had probably saved Caillaux from defeat at that time. *Ibid.*, pp. 277 (Jan. 28), 327 (Jan. 29).

[128] *Ibid.*, p. 242.

[129] *Ibid.*, p. 251.

The turnover tax was not entirely without defenders; Deputy Landry, for instance, thought it was rather wise to have such a general levy striking everyone, instead of depending too much on a direct tax collected only from certain classes, and he brought up the argument that income taxes hit savings, while the turnover tax touches only expenditures. Furthermore, why should the Finance Committee allow increased taxes on tobacco and coffee, and yet balk at the turnover tax?[130] But such sentiments did not represent the feeling of the majority of the Chamber. Indeed, it even refused to vote the increases on tobacco, coffee, salt, and alcohol upon which the Committee had agreed; though it did allow the export tax to get through, and permitted the turnover-tax rate to be stepped up to 2.5 per cent on the gross commissions of middlemen, bankers, etc., excepting payments received by domestic-industry workers and by employers hiring less than six workers. But this and the export tax together would yield only 525 millions per year[131] — not a large percentage of the four- or five-billion budget deficit to be covered.

When the "payments tax" proposal came to the Senate Finance Committee it found supporters at last. Not exactly enthusiastic, the Committee nevertheless thought such a levy the best possible thing at the time.

> It is a question, on the one hand, of assuring the Treasury a regular, immediate, and abundant inflow by means of levies sufficiently widespread so that the sums brought in are not at once reclaimed by the cashing in of Defense Bonds. On the other hand, it is a question of increasing the proportion shown by *ad valorem* taxes in our total fiscal revenue, which taxes, since their yield follows internal prices closely, guarantee up to a certain point the maintenance of budgetary equilibrium.[132]

The first argument struck against increasing direct taxes; the second against increasing certain of the *contributions indirectes*.

The Senate followed its Committee's lead and when the bill came back to the Chamber Committee, that body found itself in an embarrassing position, as the need for revenue was growing more acute, and both the Government and the Senate were exerting pressure to have the "payments tax" passed. Yet electoral promises could not be forgotten, and striking protests from outside the Chamber could not be ignored. This latter phase is illustrated by the unusual procedure of the Union of Tax Assessors and Collectors and Customs Officials in issuing a statement declaring that France was dying of "an indigestion of duties and taxes," and that any new tax, be it called tax on payments or tax on production, would finally upset the general economic position of the country by "sending up prices, increasing the poverty of the middle classes, the bulwark of society, harassing national industry in the presence of serious foreign competition, obliging holders of bonds to turn them into cash and inevitably paving the way to fresh inflation."[133] The "strike" at that time of the shopkeepers of rue Saint Honoré has already been referred to,[134] and this was followed by a similar "strike" elsewhere.[135] On the other hand, the business interests represented by the Presidents of the Chambers of Commerce were reconciled to the 1.2 per cent "payments tax,"[136] though the Paris Chamber did not completely agree, pointing out that its obligatory receipts and its collection by stamps would make it like the old payments taxes of 1918–1920, which had to be repealed because of their many inconveniences.[137]

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[130] *Ibid.*, pp. 274, 275 (Jan. 28).

[131] *D.P.*, 1926, *Sénat*, *S.O.*, p. 68 (No. 76).

[132] *Ibid.*, p. 103 (No. 84).

Caught in these conflicting currents of opinion, the Chamber Finance Committee compromised. It accepted the "payments tax" provided the rate were lowered from 1.2 to 0.5 per cent — *i.e.*, an increase of the turnover-tax rate, in reality, from 1.3 to 1.8 per cent (save for retail sales), instead of to 2.5 per cent.[138]

The Chamber itself was now the last hurdle, and for the time being it proved too high a one for the new tax to clear. On March 5 the principle of raising the turnover-tax rate was fought out. Doumer had the support of the Center, but the Left stood out for the reasons noted heretofore. Part of the Right opposed the tax also, not so much because of the tax itself, as because they saw a chance to hurl a heavy monkey-wrench into the machinery of the Briand Cabinet. The minority would not vote for a tax which part of the majority refused, especially if a thorough financial "reform" were not to be put through at the same time.[139] Doumer protested that the Treasury was piling up a deficit of 300 to 500 millions every month, and in an almost apologetic tone urged that the Chamber support him on this crucial question.[140] But it was in vain; on Bedouce's amendment to suppress the "payments tax," the Chamber voted: Yes, 274; No, 221. Briand's Cabinet resigned.

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[133] *The Times* (London), Feb. 2, 1926.

[134] *Cf. supra*, p. 14.

[135] *The Times* (London), Feb. 12, 1926.

[136] Chambre de Commerce, Paris, *Bulletin*, 1926, pp. 104, 105.

[137] *Ibid.*, pp. 181, 182.

[138] *D.P.*, 1926, *Ch.*, *S.O.*, pp. 331, 332.

It would be misleading to credit only the turnover tax with Doumer's defeat. Many deputies were displeased with the lack of a firm policy on the part of the Government. Many others were not yet convinced that heavy additional taxation of some kind or another was necessary — witness the long speech made in January by Le Cour Grandmaison of the Right.[141] The very fact that the Government would allow so much time to be given to such a theme contrasts sharply with the situation in the last days of the coming July and August, when no such long-winded and futile sentiments were tolerated. Much of crucial debate in March 5 was not concerned directly with the merits of the turnover tax. The Chamber seemed bewildered, tossed by political winds, afraid to refuse revenue and still more afraid to grant it. The turnover tax furnished a convenient rallying point for all those factions which for one reason or another wanted to see Briand and Doumer go, and to start with still another clean slate.

This view is supported by the fact that within a month, both Chamber and Senate had voted to increase the turnover-tax rate from 1.3 per cent to 2 per cent except for retail trade.

The man who succeeded where Doumer had failed was Péret, Finance Minister under the new Briand Cabinet. What caused the change in the Chamber's attitude? It was partly because the new rate was by law to be effective only until the end of 1926; partly because Péret declared himself strongly in favor of "production taxes" ultimately to replace the turnover tax, and gave proof of his sentiments by proposing a "production tax" on fertilizers, which Parliament then promptly adopted; and partly because Péret expressed his intention of asking for higher income tax rates when 1927 should arrive.[142] The Chamber Finance Committee, too, was pleased to see the proposal for a *taxe civique* (in reality largely an addition to the income taxes for 1927), and overcame its scruples about a higher turnover-tax rate when the Government decided to exempt retailers from the increase.[143] These measures were voted, and the electoral promises of 1924 were negatived in emphatic fashion.

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[139] *Déb.*, 1926, *Ch.*, *S.O.*, pp. 1229, 1230 (March 5), speech of Deputy Lafarge.

[140] *Ibid.*, pp. 1274, 1275.

[141] *Ibid.*, p. 232 (Jan. 26).

For the Treasury this was undoubtedly a happy thing, but from a technical point of view it was decidedly a poor step. The turnover tax, which had started in 1920 with but three different rates (1.1, 3 and 10 per cent),[144] now had rates of 1.3 (retail sales), 2 (all other domestic sales and imports), 2.5 (middlemen, banks, etc.), 4 and 13 (luxury hotels, etc.), 12 (luxury retail sales), and 0.2–1.3 per cent (exports), besides the replacement taxes on coal, meat and fertilizers. The distinction between retail and other sales was especially likely to provoke trouble.

Caillaux, who succeeded Péret, took the next step when in July he asked that the 1.3 and 2.5 per cent rates be changed to 2 per cent, thus unifying the rates for domestic non-luxury transactions. He also advocated increasing the export tax by making the 1.3 per cent rate effective to all non-luxury exports, with the 12 per cent rate applying to luxury exports.[145] The Chamber Finance Committee, probably weary of argument and willing to accept anything that would help balance the budget in the days when the franc was plunging downward, briefly agreed.[146] The Chamber, too, might have consented, except that Caillaux wanted power to do these things and many others by executive decree. This was too much; Caillaux was forced to resign. Herriot and his Finance Minister, De Monzie, had one day of power, and then Poincaré with his "National Union" Cabinet took control. The "new fiscal resources" bill was passed in short order, raising taxes all along the line, including the application of Caillaux's proposal to unify the

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[142] *D.P.*, 1926, *Ch.*, *S.O.*, p. 433 *et seq.* (No. 2745).

[143] *Ibid.*, p. 484 (No. 2791).

[144] Not counting the luxury tax on liquors, which has become more a part of the *contributions indirectes* than of the turnover tax.

[145] *D.P.*, 1926, *Ch.*, *S.O.*, p. 1016 (No. 3192).

[146] *Ibid.*, pp. 1044–1046 (No. 3215).

1.3, 2, and 2.5 per cent rates at 2 per cent, and to tax exports at 1.3 or 12 per cent. It is difficult to analyze the part the turnover tax played in July, 1926. With so many other things, it was submerged in the mounting waves of popular discontent and even panic over the fall of the franc and the Government's apparently imminent bankruptcy.

After the summer of 1926 the turnover tax played a far less important rôle in French politics. Problems of stabilization held financial attention, and the country was convinced that for the time being, both tax reduction and further tax increases were not to be discussed. Only when the time comes for a sweeping tax reduction, and the various candidates for favor are presented, does it seem that the turnover tax will again be fuel for parliamentary passions. Meanwhile, of course, interested parties urge changes here and there, and Parliament busies itself every so often with the mechanics of some relatively unimportant alteration. But the tax at last finds acceptance, if not as a long-term tenant, at least as a temporary lodger; and the landlord himself has no idea as to when he can afford to dispossess the unwelcome guest.

PART TWO

MAJOR PROBLEMS IN THE APPLICATION OF THE TAX

CHAPTER III

DIFFICULTIES OF ADMINISTRATION AND CONTROL

Means of Control. — Control of the new turnover tax, to repress fraud and to check up on losses occurring through ignorance and carelessness both on the part of taxpayers and tax collectors, was bound to be an extremely important question, given the history of the war and post-armistice period. The Tax Administration, shattered by mobilization and laden with new burdens, had been unable to check tax evasion, particularly in the war-profits, income, and certain registration taxes, and in the forerunners of the turnover tax, *i.e.*, the "payments taxes." These latter had noticeably failed to yield the amount expected. "Designed to bring the Treasury 750 millions in 1918," said Deputy Barthe, "they produced only 210 millions,[1] because of lack of interest on the part of the fiscal administration, which neglected to claim from the tradesmen the amounts which the latter had not failed to demand, in its name, from the taxpayers [consumers]." [2]

When the turnover-tax provisions were submitted by Finance Minister Klotz early in 1920, important measures of control were found therein, and with these available, Klotz thought the new levy would be "easy of application." [3]

Taxpayers were to keep a record of all "transactions subject to the tax" [4] on a special register, the form of which was to be fixed by administrative regulations. Upon demand they were to show not only this register, but also all books and records of receipts and expenses, and were to allow the agents to copy extracts therefrom. No class of taxpayers was to be exempt from these requirements; not even those who might be granted relief from the duty of making monthly statements and payments. Refusal would be punishable under article 5 of the law of April 17, 1906 (1,000 to 10,000 francs fine, plus *décimes*), and the special register would have to be preserved by the taxpayer for the length of time fixed by article 11 of the Code of Commerce, *i.e.*, ten years.

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[1] The *Bulletin de Statistique* for December, 1918, gives the estimated yield 781 millions, the actual yield 210 millions.

[2] *Documents Parlementaires*, 1920, *Chambre*, *Session Ordinaire*, p. 136 (No. 197).

[3] *Ibid.*, p. 4 (No. 166).

[4] *Ibid.*, p. 45 (No. 166).

The Finance Committee of the Chamber reported, and the Chamber adopted, practically the same provisions as above, taking care to note specifically that the taxpayer should keep a list of all purchases as well as sales, and adding that if the purchase or sale were with another *commerçant* (instead of being a sale at retail to the public), and if the transaction amounted to more than 500 francs, the name and address of the seller or purchaser should be entered. Instead of keeping the register of purchases and sales for ten years, however, the taxpayer was to be asked to preserve them only three years. The Chamber adopted these provisions without debate, except that Deputy Barthe showed concern for the small shopkeeper of mountainous regions who is open for business only a few hours of the day, and who in many cases can not read or write. Bokanowski explained that such a taxpayer would probably fall under the provision allowing the lumping, at the end of the day, of all cash sales not amounting to more than 100 francs apiece and not concerning luxury articles.[5] Furthermore, the draft of the bill allowed the Administration to grant taxpayers exemption from the monthly statement and monthly payment requirements, using instead an annual *forfait*[6] payment system. This was for the benefit of street hawkers, who kept no books of any kind, and for the small grocers and other small retailers;[7] but whether the drafters realized it or not, this provision did not grant exemption from the requirement of keeping a regular record of purchases and sales. One other point that threatened to cause trouble was the provision that the tax agents could make "copies or extracts" from "all the books, registers, and receipts, expenditures and bookkeeping records." Deputy Manceau was exercised over the possibility of tax agents divulging business secrets, but Bokanowski, reminding him that the agents were entitled only to inspect or copy, not remove, the financial records of the business man, assured him that they had shown themselves able to keep secrets in the past and would doubtless do so in the future.[8] The Senate simplified matters by changing the phrase to read merely "all material necessary for fixing the turnover," and as tax agents have the right to copy and make extracts unless specifically forbidden by law, the essentials were not changed. The Chamber agreed to the new phrasing.[9]

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[5] *Débats*, 1920, *Chambre*, *Session Ordinaire*, p. 1321 (April 24).

[6] *Cf. infra*, p. 71 *et seq.*, and p. 228.

[7] According to assurances given by the Registration director-general, and Bokanowski. *Déb.*, 1920, *Ch.*, *S.O.*, pp. 1324, 1321 (April 24).

Upon its return from the Senate, the control measures of the bill were found to have been decidedly weakened in one respect. The Senate had not thought it necessary to require that a record be kept in the special register of any purchases. The Chamber Committee, to avoid an interminable dispute, accepted this after long hesitation, mollified by the retention of the requirement that the taxpayer preserve his purchase invoices and receipts (along with his other commercial documents) for three years.[10] The Senate had inserted a requirement that anyone coming under the tax should make himself known to the Administration within fifteen days of opening business, which the Chamber adopted, slightly modified.[11]

The Senate again tried to block a measure of control when the 1920 budget bill came to it with the provision that any *commerçant* with over 50,000 francs per year turnover would have to show any or all of his books to Treasury agents above a certain grade, at any time, and (apparently) for any tax purposes,[12] but here the Chamber won out, after a rather prolonged struggle, and the provision became law. It was bitterly denounced by the Assembly of Presidents of the Chambers of Commerce as furnishing the Treasury with "intolerable police powers," giving it inquisitorial rights against taxpayers and authorizing it to treat business men as suspects and to penetrate into their most secret affairs.[13] But it seems that at first these "intolerable police powers" were exercised but little,[14] and the provision was not much more drastic than those already incorporated in the turnover-tax law. It allowed the tax collector, for example, to inspect a balance sheet, which right he did not have under the other law, such a document not pertaining directly to the amount of turnover.

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[8] *Ibid.*, p. 1323.

[9] *D.P.*, 1920, *Ch.*, *S.O.*, p. 1658 (No. 1032).

[10] *Ibid.*, pp. 1633, 1658 (No. 1032).

[11] *Ibid.*, p. 1656.

[12] *Ibid.*, pp. 1369 (No. 828), 2125 (No. 1452); *D.P.*, 1920, *Sénat*, *S.O.*, p. 367 (No. 339).

[13] Chambre de Commerce, Paris, *Bulletin*, 1922, p. 282. *Cf.* also *D.P.*, 1923, *Ch.*, *S.O.*, p. 182 (No. 5438).

Thus the turnover tax started its life with fairly adequate control measures, although the abolition of the requirement to keep a register of purchases as well as sales was to prove somewhat of a handicap to the tax agents. Since 1920 all the steps taken have been in the opposite direction, toward elimination of control measures.

Technique of Control. — Enacting these provisions into law was one thing, making use of them was quite another and more difficult task. The tax agents have had to go to many outside sources to check up on the taxpayers' statements of turnover, and have also found it necessary to become versed in the intricacies of double-entry bookkeeping.

Suppose a retailer submits in his monthly statement a turnover figure which the tax agent, in view of what he already knows, feels is not wholly correct. His work of checking this statement should usually be divided into two stages.

The first stage involves inquiry from outside sources as to the exact nature of the retailer's business, the approximate size of his business as compared to those of other taxpayers whose statements have already been checked, and his "fiscal morality." If he has purchased the business but recently, or negotiated any other contract requiring formal documentation, the Registration Administration will have valuable data.[15] In addition, the tax agent should inspect the records of the railroad stations as to freight shipments, of the *octroi* (town-entry tax) offices, of the public weighing machines, the parcels-post records, the records of contracts with Government bodies, the registers concerning *contributions indirectes* collected, etc.

[14] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1146 (No. 2392).

[15] On March 12, 1928, Poincaré decided that the Registration officials must forward to the Indirect-Tax Administration any information they come across that might be helpful in checking up turnover-tax payments. *Journal des Contributions Indirectes*, Aug. 22, 1928.

Getting closer to the taxpayer's actual transactions, the agent may find from the books of wholesalers what purchases the retailer has made, and by later inspecting the retailer's inventory, discover approximately what sales should have been recorded. If inspecting a wholesaler's tax statement, the collector may utilize the purchase invoices of the retailer, which the latter is required by law to preserve. This use of purchase invoices is one of the most important of all methods of control; without it, evasion would be far greater than it is.[16] As intimated above, a special record of purchases might be even better.

Armed with information from these sources, the tax agent should then study intensively the bookkeeping records of the retailer in question. First, of course, he should make a general examination to be certain that the retailer is not keeping two sets of books — one for himself and another for tax purposes. Then by checking the double-entry items against one another the agent may make reasonably sure that credit sales are all accounted for. Cash sales omissions, the most common method of evasion, are sometimes more difficult to detect, but the total sales may well be checked against the total purchases made by the retailer during the period, especially as for small retailers the stock on hand varies but little in amount. The tax agent should even inspect the cash register records, if any.[17]

Casual inspection of the books will not suffice in many cases, and detailed descriptions of the items to be checked have been furnished the tax agents.[18] All the sales-book entries, for example, should be checked against the journal entries, as should also the cash book, and the agent should likewise make sure that the journal entries for receipts from sale of goods are entered in the corresponding ledger accounts, which of course should check with one another. Special attention is paid to the ledger accounts "General Merchandise," and "Cash," and "Accounts Receivable." The agent must know when to allow for various adjustment items on the credit side of "General Merchandise," when the taxpayer's turnover appears at first glance larger than it really is. He must also, through inspection of purchase and sales invoices, make sure the taxpayer has not allocated a fictitious amount of his turnover to sales of exempt products (tea, coffee, meat, etc., on which replacement taxes have been paid at an earlier stage). He may get the total debit side of the ledger account "General Merchandise," and with the necessary adjustments thus find the cost of articles sold during the year; adding to this the proper gross trading profit (figured from the taxpayer's customary mark-up), he may compare the result with the "Sales" total where that is entered in a special account.

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[16] Statement at Finance Ministry to writer.

[17] *J.C.I.*, Sept. 8, 1926, pp. 474, 475.

[18] The following details are taken from articles written by a tax collector, experienced in this field, in *J.C.I.*, April 15, 1927, pp. 290–292, and April 22, 1927, pp. 310–312.

If after such investigations the agent finds the information does not check with the taxpayer's tax statement, he should leave the place with notice that he intends to return within a week or two and hopes to find the taxpayer ready with a sound explanation, or be prepared for an extra tax and perhaps a fine. It can be guessed what trouble this must cause many business men, especially if the agent, through ignorance of accounting, thinks he has uncovered a great discrepancy which in reality may not exist. The burden is made heavier by the fact that often the taxpayer must check back through his books for the previous three years.

By efficient and uninterrupted work the tax agent may check up on more than fifteen taxpayers a month. Thus it is slow work at the best, and necessitates a large force of inspectors if the tax is to be collected efficiently.

Doubtless such thorough scrutiny as that outlined above is not practised in many cases,[19] especially as the tax agents' familiarity with the mechanics of double-entry bookkeeping has been gained by slow degrees; even in 1927 many agents were unable to get what they wanted, although the taxpayers' books lay open before them.[20] But where a careful check-up has been applied, important results have been obtained. It is indeed surprising, as a high official at the Ministry of Finance remarked to the writer, how the sales of a large grocery store, for example, suddenly increase after the visit of a tax agent.[21]

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[19] Of course it is not in the numerous instances where the *forfait*, or estimated-tax-base, system is now in force. *Cf. infra*, p. 250 *et seq.*

[20] *J.C.I.*, April 15, 1927, p. 290.

Evasion. — Despite the best efforts of the tax collector in inspecting the business man's books, means of evasion have developed which make a correct check-up extremely difficult. A common method is to transact business with practically no records of any kind. Thus, taxpayer A sells to X goods which he has purchased from Y, which goods, however, never pass through his hands, he merely giving an order to Y to deliver direct to X. In such cases A often does not enter the transaction on his ledger account "General Merchandise," for instance; merely by telephone, perhaps, arrangement is made for settlement of the two transactions by bank check or intrabank transfer. This necessitates most careful check of customers' accounts in the ledger, as well as bank accounts, etc. The Indirect-Tax Administration regrets that the law [22] has been so interpreted that its agents can not inspect the banks' records to check up in this matter, and thus prevent fraud by "the goodly number of undiscovered *mercantis* whose total commercial equipment consists of a telephone and a mail box and who carry on very large transactions." Information of this sort can, it is true, be obtained from the Registration and Direct-Tax Administrations, but "they are often very busy," and "one is never so well served as by oneself." [23]

More effective yet is that form of escape by which the merchant or manufacturer appears to be transformed into merely a commission merchant, or a job-worker, not buying and selling goods, but only handling them for the account of the real owners. Sometimes the change is genuine, and the tax agent can do nothing about it, as the tax can then be levied only on payment received for business services.[24] Often the change is in appearance only, and this form of fraud, widespread, is difficult to uncover. In either case this is perhaps the hardest single administrative problem of the turnover tax; [25] it was largely responsible for the introduction of some of the replacement taxes.[26] Trade in wheat and flour furnishes an example: the Government asked that the turnover tax on flour be abolished, a special replacement tax with no loopholes being instituted instead. Millers were closing agreements with their customers whereby the latter took title to the grain and kept title when the grain was being transformed into flour. The miller, then, bought no grain and sold no flour; he merely furnished a business service (grinding the grain into flour) and could be taxed on the payment for that alone.[27] The same situation exists in the malt industry, and the Chambre Syndicale de la Malterie has sponsored a replacement tax on malting.[28]

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[21] *Cf.* also remarks by Senator Bérenger, *D.P.*, 1922, *Sénat*, *S.E.*, p. 36 (No. 624)

[22] Arts. 67 of law of June 25, 1920, and 32 of law of July 31, 1920.

[23] For further details, *cf.* *J.C.I.*, Oct. 22, 1927, pp. 626–630.

[24] For legal development of this question, *cf.* *infra*, pp. 208, 209.

[25] Statement by Finance Ministry official to writer; *cf.* also *J.C.I.*, March 8, 1921, p. 130.

In the grain trade, where dealers continually attempted to appear to the tax agents as mere commission merchants, whether they actually were or not, the distinction gave rise to "incessant disputes. Fraud in this matter is extremely difficult to detect, because of the ambiguity of contracts, and this is prejudicial both to the Treasury and to business circles." [29] Parliament therefore passed a law in 1927 placing commission merchants on the same footing as true buyers and sellers as concerned dealings in grains, both classes of dealers now being taxed at the low rate of 0.55 per cent on the total value of the grain they handle. Brokers, who can be more easily distinguished because their papers show the names of buyers and sellers they bring together, are kept under the former régime.[30]

Semi-wholesalers are selling to the public through retail commission branches.[31]

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[26] *Cf. infra*, pp. 135, 142, 155.

[27] *Cf.* "Projet de budget de . . . 1929," in *Bulletin de Statistique et de Législation Comparée*, Aug., 1928, p. 311.

[28] *J.C.I.*, Nov. 22, 1928, p. 602.

[29] *Ibid.*, April 8, 1927, p. 276. *Cf.* also *Déb.*, 1927, *Sénat*, *S.O.*, p. 328 (March 24).

[30] *Cf. infra*, p. 264. This reform almost failed of passage because Poincaré thought it necessary to reduce the import tax to 0.55 per cent, to equalize the burden as between domestic and foreign grain. This proposal was strongly opposed by representatives of the French farmers. *Cf. Déb.*, 1927, *Ch.*, *S.O.*, pp. 478–482 (Feb. 22), 967 (March 22), 1034 (March 25); *Sénat*, *S.O.*, pp. 327–331 (March 24). *Cf.* also comment by representatives of the grain trade, on the whole not very unfavorable. They claimed the (then) 1.1 per cent tax, applied to a true buyer and seller of grain, influenced the prices of flour and bread, and drove most of such dealers to adopt a genuine commission-merchant status. Chambre de Commerce, Paris, *Bulletin*, 1924, pp. 620–625.

[31] *J.C.I.*, June 22, 1927, pp. 411–413; and *infra*, p. 316.

Belgium has had somewhat the same experiences; this "almost insoluble difficulty" was one of the main reasons for substituting a number of replacement taxes for part of the sales tax there.[32]

The extent to which business men have escaped the turnover tax, both legally and illegally, is not known even approximately, but there seems little doubt that fraudulent evasion was fairly widespread in the three or four years following 1920.[33] The *Journal des Contributions Indirectes* was moved to remark at that time (1923) that "with some honorable exceptions, the taxpayer, generally speaking, is very much inclined to evade the tax as far as he thinks he can do so without running too great a risk." [34]

But while the absolute amount of evasion can never be known, an attempt may be made to trace the progress of relative evasion.

Relative Evasion and Relative Elasticity. — If it be assumed that the turnover-tax yield should increase proportionately to (*a*) increase in rates, (*b*) increase in price level, (*c*) increase in amount of business transacted, and if a proper measure of these increases can be found, index numbers of "ideal" yield may be calculated on any given period as a base, and contrasted with the index number of actual yield on the same base. Any discrepancy should then indicate that for the later period under consideration, compared with the base period, there has been a change in the amount of evasion, both legal and extra-legal, assuming of course that the scope of the tax has not meanwhile been altered.

There are no accurate measures for (*b*) and (*c*) above, and even (*a*) is sometimes difficult to calculate. But by taking the wholesale price index as worked out by the Federal Reserve Board, and the index of industrial activity printed by the *Statistique Générale*, one may make an approach to the problem. This is done in Table 1, with four different bases; the latter two (third quarter, 1923, and third quarter, 1924) are employed because of changes in the scope of the tax just before those periods. The percentage items in columns 8, 9, 13, 14, 18, 19, 23, and 24 are the most significant.

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[32] *J.C.I.*, Feb. 8, 1926, p. 90.

[33] *Cf.* remarks of Senator Bérenger, *D.P.*, 1922, *Sénat*, *S.E.*, p. 36 (No. 624); of Senator Serre, Commerce Committee, *ibid.*, p. 92 (No. 668); and various *Rapports* and *Bulletins* of Chambers of Commerce, etc. *Cf.* also *infra*, p. 84.

[34] Feb. 8, 1923, p. 79.

TABLE 1

DEVELOPMENT OF INDEX OF RELATIVE TURNOVER-TAX YIELD, OR RELATIVE EVASION

PART 1. INDEX NUMBERS OF ACTUAL YIELD, AND "IDEAL YIELD," ON FIRST QUARTER 1921 BASE

BASE: FIRST QUARTER 1921

INDEX NUMBERS

Col. 1	(A) Tax Rate Col. 2	(B) Wholesale Price Level [a] Col. 3	Index Number of "Ideal" Yield, (A) times (B) (assuming "ideal" yield to vary as the tax rate and the wholesale price level only) Col. 4	(C) Index of Industrial Production [b] Col. 5	Index Number of "Ideal" Yield, (A) times (B) times (C) (assuming the "ideal" yield to vary as the tax rate, the wholesale price level, and the index of industrial production) Col. 6	Index Number of Actual Yield (in terms of yield in first quarter, 1921) [c] Col. 7
1921: First Quarter	1	1 (391)	1	1 (58)	1	1 (457,132)
Second Quarter	1	0.8824 (345)	0.882	0.8793 (51)	0.776	0.962 (439,624)
Third Quarter	1	0.8338 (326)	0.834	0.8448 (49)	0.704	1.032 (471,886)
Fourth Quarter	1	0.7980 (312)	0.798	0.9655 (56)	0.770	1.175 (537,067)
1922: First Quarter	1	0.7801 (305)	0.780	1.2069 (70)	0.9415	1.131 (516,981)
Second Quarter	1	0.8261 (323)	0.826	1.3276 (77)	1.097	1.239 (566,172)

TABLE 1 (*Continued*)

Third Quarter	1	0.8210 (321)	0.821	1.4138 (82)	1.161	1.275 (582,931)
Fourth Quarter	1	0.8363 (327)	0.836	1.5172 (88)	1.269	1.460 (667,270)
1923: First Quarter	1	0.9591 (375)	0.959	1.4655 (85)	1.406	1.462 (668,211)
Second Quarter	1	0.9974 (390)	0.997	1.4483 (84)	1.445	1.617 (739,055)
Third Quarter	1	1.0102 (395)	1.010	1.5517 (90)	1.5675	1.772 (810,141)
Fourth Quarter	1	1.0639 (416)	1.064	1.6724 (97)	1.779	1.932 (883,164)
1924: First Quarter	1	1.1918 (466)	1.192	1.7759 (103)	2.1165	2.051 (937,505)
Second Quarter	1.2	1.1074 (433)	1.329	1.7759 (103)	2.360	2.286 (1,044,822)
Third Quarter	1.2	1.1228 (439)	1.347	1.8966 (110)	2.555	2.374 (1,085,452)
Fourth Quarter	1.2	1.1432 (447)	1.372	1.9655 (114)	2.696	2.537 (1,159,821)
1925: First Quarter	1.2	1.1739 (459)	1.409	1.8276 (106)	2.5745	2.337 1,068,292)
Second Quarter	1.2	1.2020 (470)	1.442	1.7759 (103)	2.562	2.444 (1,117,449)
Third Quarter	1.2	1.2481 (488)	1.498	1.8103 (105)	2.711	2.395 (1,094,695)
Fourth Quarter	1.2	1.2762 (499)	1.531	1.9138 (111)	2.931	2.895 (1,323,307)

TABLE 1 (*Continued*)

DEVELOPMENT OF INDEX OF RELATIVE TURNOVER-TAX YIELD, OR RELATIVE EVASION

PART 1. INDEX NUMBERS OF ACTUAL YIELD AND "IDEAL YIELD," ON FIRST QUARTER 1921 BASE

BASE: FIRST QUARTER 1921

INDEX NUMBERS

	(A) Tax Rate	(B) Wholesale Price Level[a]	Index Number of "Ideal" Yield, (A) times (B) (assuming "ideal" yield to vary as the tax rate and the wholesale price level only)	(C) Index of Industrial Production[b]	Index Number of "Ideal" Yield, (A) times (B) times (C) (assuming the "ideal" yield to vary as the tax rate, the wholesale price level, and the index of industrial production)	Index Number of Actual Yield (in terms of yield in first quarter, 1921)[c]
Col. 1	*Col. 2*	*Col. 3*	*Col. 4*	*Col. 5*	*Col. 6*	*Col. 7*
1926: First Quarter	1.2	1.3734 (537)	1.648	1.9483 (113)	3.211	3.026 (1,383,455)
Second Quarter	1.59[d]	1.5294 (598)	2.432	2.1034 (122)	5.115	3.811 (1,742,133)
Third Quarter	1.71[d]	1.7775 (695)	3.040	2.2069 (128)	6.708	4.928 (2,252,911)
Fourth Quarter	1.77[d]	1.6624 (650)	2.942	2.1724 (126)	6.392	5.028 (2,298,292)
1927: First Quarter	1.77	1.5217 (595)	2.693	1.8793 (109)	5.062	4.458 (2,038,110)

TABLE 1 (*Continued*)

DEVELOPMENT OF INDEX OF RELATIVE TURNOVER-TAX YIELD, OR RELATIVE EVASION

PART 2. PERCENTAGE OF ACTUAL YIELD'S INCREASE OVER, OR DECLINE UNDER, THE "IDEAL YIELD," ON TWO BASES, FIRST QUARTER 1921, AND SECOND QUARTER 1921

			Col. 4 on new base	*Col. 6 on new base*	*Col. 7 on new base*		
	BASE: FIRST QUARTER 1921		BASE: SECOND QUARTER 1921				
	Per Cent by Which Actual Yield Exceeded or Fell Below "Ideal Yield"					Per Cent by Which Actual Yield Exceeded or Fell Below "Ideal Yield"	
	Ideal Yield: (A) times (B)	Ideal Yield: (A) times (B) times (C)				"Ideal Yield," Col. 10	"Ideal Yield," Col. 11
	Col. 8	*Col. 9*	*Col. 10*	*Col. 11*	*Col. 12*	*Col. 13*	*Col. 14*
1921: Second Quarter	9	24	1	1	1	0	0
Third Quarter	24	47	0.945	0.908	1.073	14	18
Fourth Quarter	47	53	0.904	0.993	1.222	35	23
1922: First Quarter	45	20	0.884	1.213	1.176	33	− 3
Second Quarter	50	13	0.936	1.414	1.288	38	− 9
Third Quarter	55	10	0.930	1.496	1.326	43	− 11
Fourth Quarter	75	15	0.948	1.635	1.518	60	− 7
1923: First Quarter	52	4	1.087	1.812	1.520	40	− 16
Second Quarter	62	12	1.130	1.862	1.681	49	− 10
Third Quarter	75	13	1.145	2.020	1.843	61	− 9
Fourth Quarter	82	9	1.206	2.293	2.009	67	− 12

TABLE 1 (*Continued*)

DEVELOPMENT OF INDEX OF RELATIVE TURNOVER-TAX YIELD, OR RELATIVE EVASION

PART 2. PERCENTAGE OF ACTUAL YIELD'S INCREASE OVER, OR DECLINE UNDER, THE "IDEAL YIELD," ON TWO BASES, FIRST QUARTER 1921, AND SECOND QUARTER 1921

			Col. 4 on new base	*Col. 6 on new base*	*Col. 7 on new base*		
	BASE: FIRST QUARTER 1921		BASE: SECOND QUARTER 1921				
	PER CENT BY WHICH ACTUAL YIELD EXCEEDED OR FELL BELOW "IDEAL YIELD"					PER CENT BY WHICH ACTUAL YIELD EXCEEDED OR FELL BELOW "IDEAL YIELD"	
	IDEAL YIELD: (A) TIMES (B)	IDEAL YIELD: (A) TIMES (B) TIMES (C)				"IDEAL YIELD," COL. 10	"IDEAL YIELD," COL. 11
	Col. 8	*Col. 9*	*Col. 10*	*Col. 11*	*Col. 12*	*Col. 13*	*Col. 14*
1924: First Quarter	72	— 3	1.351	2.728	2.133	58	— 22
Second Quarter	72	— 3	1.506	3.042	2.377	58	— 22
Third Quarter	76	— 7	1.527	3.293	2.469	62	— 25
Fourth Quarter	85	— 6	1.555	3.475	2.638	70	— 24
1925: First Quarter	66	— 9	1.597	3.318	2.430	52	— 27
Second Quarter	69	— 5	1.635	3.302	2.542	55	— 23
Third Quarter	60	— 12	1.697	3.495	2.490	47	— 29
Fourth Quarter	89	— 1	1.736	3.778	3.010	73	— 20
1926: First Quarter	84	— 6	1.868	4.139	3.147	68	— 24
Second Quarter	57	— 25	2.756	6.593	3.963	44	— 40
Third Quarter	62	— 27	3.445	8.646	5.125	49	— 41
Fourth Quarter	71	— 21	3.335	8.238	5.228	57	— 37
1927: First Quarter	66	— 12	3.053	5.524	4.636	52	— 16

TABLE I (*Concluded*)

DEVELOPMENT OF INDEX OF RELATIVE TURNOVER-TAX YIELD, OR RELATIVE EVASION

PART 3. PERCENTAGE OF ACTUAL YIELD'S INCREASE OVER, OR DECLINE UNDER, THE "IDEAL YIELD," ON TWO BASES: THIRD QUARTER 1923, AND THIRD QUARTER 1924

	Col. 4 on new base	*Col. 6 on new base*	*Col. 7 on new base*			*Col. 4 on new base*	*Col. 6 on new base*	*Col. 7 on new base*		
	BASE: THIRD QUARTER, 1923					BASE: THIRD QUARTER, 1924				
				PER CENT BY WHICH ACTUAL YIELD EXCEEDED OR FELL BELOW "IDEAL YIELD"					PER CENT BY WHICH ACTUAL YIELD EXCEEDED OR FELL BELOW "IDEAL YIELD"	
				"IDEAL YIELD," COL. 15	"IDEAL YIELD," COL. 16				"IDEAL YIELD," COL. 20	"IDEAL YIELD," COL. 21
	Col. 15	*Col. 16*	*Col. 17*	*Col. 18*	*Col. 19*	*Col. 20*	*Col. 21*	*Col. 22*	*Col. 23*	*Col. 24*
1923: Third Quarter	1	1	1	0	0	.....	.....	.....	.....	.....
Fourth Quarter	1.053	1.135	1.090	4	− 4	.....	.....	.....	.....	.....
1924: First Quarter	1.180	1.350	1.157	− 2	− 14	.....	.....	.....	.....	.....
Second Quarter	1.315	1.505	1.290	− 2	− 14	.....	.....	.....	.....	.....
Third Quarter	1.334	1.630	1.340	[a]	− 18	1	1	1	0	0
Fourth Quarter	1.358	1.720	1.432	5	− 17	1.018	1.055	1.069	5	1
1925: First Quarter	1.394	1.642	1.319	− 5	− 20	1.046	1.008	0.984	− 6	− 2
Second Quarter	1.428	1.634	1.379	− 3	− 16	1.071	1.003	1.029	− 4	3
Third Quarter	1.483	1.730	1.351	− 9	− 22	1.112	1.061	1.009	− 9	− 5
Fourth Quarter	1.516	1.870	1.633	8	− 13	1.137	1.147	1.219	7	6
1926: First Quarter	1.631	2.048	1.708	5	− 17	1.223	1.257	1.275	4	1
Second Quarter	2.407	3.263	2.150	− 11	− 34	1.805	2.002	1.605	− 11	− 20
Third Quarter	3.009	4.279	2.781	− 8	− 35	2.256	2.625	2.076	− 8	− 21
Fourth Quarter	2.913	4.078	2.837	− 3	− 30	2.184	2.502	2.117	− 3	− 15
1927: First Quarter	2.666	3.229	2.516	− 6	− 22	1.999	1.981	1.878	− 6	− 5

[a] Less than one-half of one per cent increase.

NOTES TO TABLE 1.

[a] Figures in parentheses show wholesale price level on 1913 as base 100, as compiled by Federal Reserve Board. From manuscript.

[b] Figures in parentheses show industrial production index from *Bulletin de la Statistique Générale de la France*, Vol. 15, pp. 304, 305.

[c] Figures in parentheses show actual tax collections, in thousands of francs; taken from monthly tax reports in *Bulletin de Statistique et de Législation Comparée*. The monthly reports of yield have been staggered ahead one in computing quarterly totals. Thus, the yield given in this table for the first quarter of 1921 is the sum of the tax collections for February, March, and April, 1921, which represent sales made during January, February, and March, 1921. The yield is that for the whole turnover-tax system (including replacement taxes during and after 1925, and import tax) excepting only the export tax (1926, 1927). Beginning with 1922 the figures include collections from Alsace and Lorraine.

[d] Different parts of the turnover-tax system were raised in different degrees. The calculation of the proper rate increase applicable to the whole system gives only an approximate index number, considering the data which the writer has at hand. The task was to find what ratio to the total yield the yield of each part of the tax bore, and by using these ratios as weights, to find the average rate increase for the system as a whole.

Luxury Tax on First-class Hotels, Restaurants, etc. — Table 10 gives the total turnover for this class for 1924 at 593,342,378 frs. Applying the 10 per cent rate, plus 15 per cent for the 20 per cent increase in rates which was in force during the last three quarters of 1924, one reaches a supposed yield of 68,234,000, or 1.67 per cent of the total collections (Table 20) of 4,090,482,000 for the calendar year 1924, excluding *période complémentaire* collections.

Luxury Tax on Retail Sales, etc. — Table 20 gives the total yield for this and the class just noted above as 574,052,853 for 1924. Subtracting 68,234,000, one reaches a yield of approximately 505,819,000 for the luxury tax on retail sales, including the tax on automobile manufacturers, or 12.37 per cent of the 1924 collections. *Cf.* footnote *d* to Table 10.

Luxury Tax on Second-class Hotels, Restaurants, etc. — Table 20 (note *w*) gives the total yield for this class as approximately 57,096,000 for 1924, or 1.40 per cent of the 1924 total. *Cf.* footnote *d* to Table 10.

Retail Sales of Non-luxury Articles. — Table 10 gives a total taxable turnover, for this class, in 1924, of 111,776,516,000. Applying the one per cent rate, with an increase of 15 per cent for the 20 per cent increase which applied during the last nine months of 1924, one reaches an estimated yield of approximately 1,285,430,000 for this class, or 31.42 per cent of the 1924 total.

All Sales of Non-luxury Articles, and of Services, Other Than at Retail. — Table 20 gives the total yield for 1924 from this class and the one noted just above, at 2,968,730,139. Subtracting, one gets an estimated yield for this class of 1,683,300,000 or 41.15 per cent of the 1924 total.

Imports. — Table 20 shows the yield to be 469,462,000 for 1924, or 11.48 per cent of the 1924 total.

Coal Tax. — Table 21 shows the yield for the first quarter of 1926 to be approximately 26,758,000, or 1.99 per cent of the total turnover-tax collections for the first quarter of 1926 (1,344,516,000).

NOTES TO TABLE 1 (*Continued*)

Slaughtering Tax. — Table 21 shows the yield for the first quarter of 1926 to be approximately 58,476,000, or 4.35 per cent of the 1926 first quarter total.

Presenting the ratios in summary:

1924	
(1) Luxury tax, first-class hotels	1.67 per cent
(2) Luxury tax, retail sales, and automobiles	12.37
(3) Luxury tax, second-class hotels	1.40
(4) Retail sales, non-luxury articles	31.42
(5) Non-retail sales, non-luxury articles	41.15
(6) Imports	11.48
	99.49 per cent

The total does not come to 100 per cent because the total yield used as the divisor does not exactly equal the sum of the separate parts. *Cf.* footnote *bb*, Table 20.

First quarter, 1926	
Coal tax	1.99 per cent
Slaughtering tax	4.35

Had these latter two taxes been in effect in 1924 they would have served to reduce the ratios attributed to (4), (5), and (6) above. Arbitrarily one might say that of the 1.99 per cent of the coal tax, 0.50 should be subtracted from (4) above, 0.90 from (5) above, and 0.59 from (6) above. Of the 4.35 per cent of the slaughtering tax, perhaps 2.00 per cent should be subtracted from (4) above, 2.10 per cent from (5) above, and 0.25 from (6) above. Correcting the above percentages thus arbitrarily, and being willing to believe that somewhat the same distribution as among parts of the tax existed in 1926 and the following years as in 1924, one gets the following:

(1) Luxury tax, first-class hotels	1.67 per cent
(2) Luxury tax, retail sales, and automobiles	12.37
(3) Luxury tax, second-class hotels	1.40
(4) Retail sales, non-luxury articles	28.92
(5) Non-retail sales, non-luxury articles and services	38.15
(6) Imports, not including coal and slaughtering taxes	10.64
(7) Coal tax	1.99
(8) Slaughtering tax	4.35
	99.49 per cent

Admittedly, these are an uncertain set of weights. Applying them however to the percentages by which rates were increased in April, 1926, we obtain the following:

(1)	1.67 × 0.08	0.1336
(2)	12.37 × 0	0
(3)	1.40 × 0.11	0.1540
(4)	28.92 × 0	0
(5)	38.15 × 0.62	23.6530
(6)	10.64 × 0.58	6.1712
(7)	1.99 × 0.42	0.8358
(8)	4.35 × 0.30	1.3050
	99.49	32.2526

This table suggests the following reflections:

1. That although the total turnover-tax yield in the first quarter of 1927 (excluding the export tax) was almost four and one-half times as great as it was in the first quarter of 1921, in terms of first-quarter-1921 francs it had increased only 293 per cent.

2. That the first quarter of 1921 was a time of relatively high evasion, and that during 1921 collection of the tax improved greatly, the last quarter of the year showing a yield about 50 per cent greater than that to be expected from the variations in the wholesale price level and the index of industrial activity.

3. That during 1922, as the price level and industrial activity index both rose somewhat, the turnover-tax yield failed to hold its relative gain[35] unless the expected yield is calculated on the basis of

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[35] This statement is strengthened when it is recalled that collections from Alsace and Lorraine do not appear in the 1921 figures, but are included in 1922 and later years.

NOTES TO TABLE 1 (*Concluded*)

The figure 0.62 above is 0.58 for non-retail, non-luxury articles; services of intermediaries were raised from 1.20 to 2.40 and so the 0.58 is increased to 0.62 arbitrarily, to account for this. Thus $\frac{32.2526}{99.49} = 0.324179$, which gives the approximate percentage by which the turnover-tax rate of 1.20 was raised in 1926. This means an increase of rate from 1.20 per cent to 1.589, approximately.

The outer limit of error to this is probably 1.65, the inner, about 1.55.

Beginning August, 1926, a new schedule of rates applied which modified the groups above, compared to rates in force before April, 1926, as follows:

(1)	1.67 × 0.08	0.1336
(2)	12.37 × 0	0
(3)	1.40 × 0.11	0.1540
(4) (5)	67.07 × 0.58	38.9006
(6)	10.64 × 0.58	6.1712
(7)	1.99 × 0.42	0.8358
(8)	4.35 × 0.30	1.3050
	99.49	47.5002

Thus $\frac{47.5002}{99.49} = 47.7437$. To get the new index number, 1.477 × 1.2 = 1.772. These new rates applied only two months in the third quarter, for which quarter the rate index number should, therefore, be $\frac{1.59 + 1.77 + 1.77}{3} = 1.71$.

price levels alone. Taking into consideration also the increase in industrial activity, collections had, by the first quarter of 1923, fallen back almost to the state of the first quarter of 1921.

4. That in 1923 and 1924 there was no marked progress made in checking evasion, nor improvement in the elasticity of the tax, even after allowing for the exemption of artisans and others in the second quarter of 1923 by taking as a new base the third quarter of that year. By "elasticity" is here meant the relative failure of the tax to check the number and size of transactions.

5. That in 1925 (using as a base the third quarter of 1924 because of the introduction of a true *forfait*, or estimated-tax-base, system in the previous quarter) the yield responded fairly well to the 20 per cent rate increase, and evasion was somewhat checked.

6. That in 1926, whether comparison be made only with the price level or with both it and the industrial production index, either the tax failed to respond fully to the further increase in rates, or no progress had been made in repressing evasion, or both. Judged by the increases in the price level, tax rates, and industrial activity index, the tax yielded slightly less in the first quarter of 1927 than it should have done, considering the yield in the first quarter of 1921 but without taking into account subsequent important changes in the scope of the tax. If one judges by the increased tax rates and price levels alone, however, considerable improvement (perhaps between 60 and 80 per cent) has been made in checking evasion.

These figures may not be very significant, because of the chances of inaccuracy in, and the nature of, the indices used. But they lead the writer to believe that, while progress has no doubt been made since 1920 and 1921 in checking fraudulent evasion, much if not all of this ground has been lost (up to March, 1927) by the development of legal evasion, such as the transformation of buyers and sellers into commission merchants. The second conclusion is that either evasion was increased, or trading activity checked, by the increase in tax rates in 1926, so that for a while at least the higher rates did not yield what might have been expected. This is indicated by the rather sharp change in the percentages from the first quarter of 1926 to the second (Cols. 23 and 24).

The data in Table 2, showing the wide discrepancy among

TABLE 2

VARIATION FROM YEAR TO YEAR IN TURNOVER-TAX COLLECTIONS[a] IN THE TEN DÉPARTEMENTS RANKING FOR 1926 (INDIRECT-TAX ADMINISTRATION ONLY) 1920–1926[b]

(In francs)

	1920 (Six Months Only)		1921 (Full Year)			1922			1923		
	Amount of Tax Collected	Rank	Amount of Tax Collected	Rank	Per Cent Increase Over Previous Six Months	Amount of Tax Collected	Rank	Per Cent Increase Over Previous Year	Amount of Tax Collected	Rank	Per Cent Increase Over Previous Year
Seine	59,764,254	1	166,190,671	1	178.1	175,674,909	1	5.7	294,531,743	1	67.7
Nord	8,816,943	2	45,199,671	2	412.6	61,998,832	2	37.2	83,693,668	2	35.0
Seine-Inférieure	7,577,081	3	19,043,807	3	151.3	21,213,708	5	11.4	25,151,384	7	18.6
Seine-et-Oise	6,384,060	4	18,376,480	4	187.8	22,817,976	3	24.2	28,799,200	3	26.2
Gironde	6,256,202	5	17,033,212	5	172.3	20,074,787	6	17.9	28,609,252	4	42.5
Rhône	5,835,951	6	15,340,144	7	162.9	17,849,721	7	16.4	26,592,784	6	49.0
Bouches-du-Rhône	5,544,765	7	13,338,775	9	140.6	14,426,944	9	8.2	19,819,676	9	37.4
Pas-de-Calais	5,248,032	9	16,346,735	6	211.5	21,728,740	4	32.9	28,437,502	5	30.9
Meurthe-et-Moselle	4,406,450	10	11,435,450	11	159.5	13,557,779	11	18.6	16,987,925	10	25.3
Rhin (Bas-)	....	..	....	..	....	10,077,571	20	...	14,079,928	16	39.7
Total, All Départements, Indirect-Tax Administration	249,389,776		690,340,310		176.8	833,459,879		20.7	1,113,521,897		33.6

TABLE 2 — *Continued*

VARIATION FROM YEAR TO YEAR IN TURNOVER-TAX COLLECTIONS[a] IN THE TEN DÉPARTEMENTS RANKING FOR 1926 (INDIRECT-TAX ADMINISTRATION ONLY) 1920–1926[b]

(In francs)

	1924			1925			1926		
	Amount of Tax Collected	Rank	Per Cent Increase Over Previous Year	Amount of Tax Collected	Rank	Per Cent Increase Over Previous Year	Amount of Tax Collected	Rank	Per Cent Increase Over Previous Year
Seine	459,178,992	1	55.9	790,624,117	1	72.2	2,502,702,139	1	216.5
Nord	100,991,327	2	20.7	155,520,093	2	54.0	514,005,336	2	230.5
Seine-Inférieure	29,782,632	7	18.4	68,587,213	4	130.3	149,483,592	6	117.9
Seine-et-Oise	37,394,202	4	29.8	54,299,355	7	45.2	94,747,448	10	74.5
Gironde	40,703,081	3	42.3	53,487,708	8	31.4	132,513,358	7	147.7
Rhône	36,809,381	5	38.4	67,367,465	5	83.0	263,128,935	3	290.6
Bouches-du-Rhône	25,885,480	8	30.6	71,350,981	3	175.6	181,803,437	4	154.8
Pas-de-Calais	34,033,387	6	19.7	62,034,465	6	82.3	150,032,478	5	141.9
Meurthe-et-Moselle	20,009,680	12	17.8	38,455,294	11	92.2	95,308,812	9	147.8
Rhin (Bas-)	22,398,729	10	59.1	45,108,263	9	101.4	102,245,439	8	126.7
Total, All Départements, Indirect-Tax Administration	1,464,285,956		31.5	2,500,343,176		70.8	6,448,755,129		157.9

[a] Includes fines.

[b] Collection figures from annual reports of Indirect-Tax Administration in August issues of *Bulletin de Statistique*.

several départements in their year-to-year improvement in collections, indicate that varying degrees of evasion have been present in different sections of the country, even admitting the influence of local business conditions.

Taxpayers' Protests against Control. — The more the tax officials attempted to check evasion by constant and careful inspection of taxpayers' records, the more the taxpayers — through a section of Parliament — complained.

Before the year 1920 was out, protests began to be heard from representatives of the small retailers against the measures of control and the onerous duties to which the turnover tax subjected them. In tracing this rising wave of discontent, it is difficult to know whether the protests developed mainly because the smaller taxpayers were indeed subjected to new and onerous duties, and to "inquisitorial" methods of inspection by tax agents, or whether the real basis was a desire to escape a large part of the tax in any way possible by tying the Administration's hands.

Reading the vehement outpourings of parliamentary orators, one might believe that the new tax imposed intolerable red-tape burdens upon the multitude of small retailers. Even that tax collector's organ, the *Journal des Contributions Indirectes*, has said that the most serious fault of the turnover tax, or at least the one most peculiar to it, is the necessity of fiscal intervention in the affairs of a large number of taxpayers, and the resulting measures of control, which "if they are not as troublesome, as vexatious as some pretend, at least place the taxpayer in an unenviable situation."[36]

An official at the Ministry of Finance, on the other hand, assured the writer that the more violent parliamentary complaints are but a smoke screen behind which the smaller taxpayers hope to escape payment, and that if they are subject to red tape it is because they have brought it on themselves by their attempts at evasion.[37]

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[36] Feb. 8, 1926, p. 84. *Cf.* also complaint by Commerce Committee, *D.P.*, 1921, *Ch.*, *S.O.*, p. 1502 (No. 2662).

[37] *Cf.* also "Faut-il supprimer la taxe sur le chiffre d'affaires?" in *Revue Politique et Parlementaire*, 1924, pp. 425–443, in which Gabriel Desbats states his belief that complaints of onerous duties and "inquisition" are very exaggerated, if not absolutely unjustified; and Allix and Lecerclé, *La Taxe sur le chiffre d'affaires*, p. 331, to the same effect, as regards the duties.

This smoke screen, if such it is, has in part taken the form of a protest against being compelled to keep accurate records of gross receipts. To the ordinary American merchant this might not seem a particularly onerous obligation; but there seems little doubt that many of the smaller French retailers have been sadly remiss in the most elemental forms of bookkeeping. The Code of Commerce requires them to keep certain books, among them of course a book of gross receipts, or sales; but in practice this has been widely disregarded.[38] Especially in the country, many merchants "ask themselves in great distress (*avec angoisse*) how they will be able to keep the special record [of sales] which is demanded of them and which runs contrary to their habits and temperament." [39] Deputy Constant drew a moving picture of a "poor widow who keeps a modest grocery store in the center of a canton. She can not be bothered to keep books, to make multiple declarations and to go every month to take her place in the large crowd of those who wait for the fiscal agents to have the goodness to receive them. [Applause.]" [40] How could the merchants at the *Halles* (central produce market) keep a record of gross receipts, in the bustle of business? [41]

Even after the turnover tax had been in force three or four years there were many small merchants, both in city and country, who were neglecting to keep books which seemed to them "complex, irksome, and useless." [42] It seems unlikely that the gross receipts register could have been the sole cause of this complaint; the insistence of the tax collector upon inspecting other ledgers, purchase records, etc., when perhaps none existed, must have contributed to the dissatisfaction. This brings us to the second complaint on the part of the taxpayers; bad as it was to be forced to keep records of sales, it was worse yet to be compelled to allow inquisitive tax agents access to them.

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[38] Chambre de Commerce, Paris, *Bulletin*, 1918, pp. 417–419; 1920, pp. 157, 158. The small retailers' bookkeeping was almost nil, declared the reporter-general of the Finance Committee, in *Déb.*, 1925, *Ch.*, *S.O.*, p. 1464 (Feb. 28). For details on requirements of *code de commerce*, *cf.* Maurice Gardes, *L'Impôt sur le Chiffre d'Affaires, 1re partie, Des Principes de Droit Commercial*, pp. 15–38.

[39] *D.P.*, 1922, *Sénat*, *S.E.*, p. 37 (No. 624). *Cf.* also *D.P.*, 1920, *Ch.*, *S.E.*, p. 261 (No. 1631), *proposition de résolution* by Deputy Dariac and others.

[40] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2459 (May 31). As this indicates, the small taxpayers were annoyed not only by the means of control, but by the regulations regarding payment. *Cf. infra*, pp. 87–89.

[41] *Ibid.*, p. 2503 (June 2).

[42] *D.P.*, 1923, *Ch.*, *S.E.*, p. 371 (No. 6627).

Running through all protests against almost all taxes in France are the words "inquisition," "vexatious" and similar nouns and adjectives expressing the fervent hope that the tax collector be kept at a proper distance and forced to curb his professional curiosity as to the intimate, even sacred, details of the citizen's business affairs. The larger business interests have expressed this feeling constantly as concerns the income taxes;[43] it was perhaps only natural for the smaller business men to voice it when the turnover levy made them all too familiar with the tax collector. Deputies have been frank in claiming that the "Latin temperament" demands freedom from the tax collector's presence,[44] and a high official at the Ministry of Finance, not without a trace of pride, admitted that the French are more "independent" than others, and hate to have direct contact with the fisc.[45]

Perhaps the tax collector himself has shown a little too much "temperament" at times; Deputy Le Mire, for instance, claimed that the taxpayer was willing enough to pay (a rather optimistic view), but objected strenuously to the *contrôleur's* "looking in the wardrobe to see if any invoices are hidden there."[46] Submitting a proposal to exempt everyone except *sociétés* (corporations and partnerships) from the turnover tax, Deputies Barthe and Félix, in 1922, declared the tax agents were so eager in their pursuit that they showed a total lack of delicacy in probing the merchant for information on the size of his turnover and the truthfulness of his statements, even in the presence of the merchant's customers, sometimes going so far as to wheedle information from his wife and children in his absence! In one case, it was claimed, the taxpayer found himself about to be penalized on the basis of a signed statement exacted from his minor daughter in his absence.[47]

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[43] As shown, *e.g.*, in the numerous protests in the Paris Chamber of Commerce *Bulletin*, 1918–1926.

[44] *Déb.*, 1921, *Ch.*, *S.O.*, pp. 2455–2457 (May 31).

[45] Statement to writer.

[46] *Déb.*, 1925, *Ch.*, *S.O.*, p. 1472 (Feb. 28).

[47] *D.P.*, 1922, *Ch.*, *S.O.*, p. 983 (No. 4428). *Cf.* also *ibid.*, p. 84 (No. 3808), resolution by Patureau-Mirand and others, asking the Government to extend a *forfait* system to all turnover-tax payers.

The Chamber Finance Committee noted that in the case of the small retailer, located in a town where everyone knew everyone else, the tax collector's work took on too personal an air of suspicion; no matter how tactful his visits might be, they could give rise to gossip, and in addition took up the time of the shop-owner or his wife or daughter, while customers waited.[48] Whether or not such incidents explained the dissatisfaction, they were played up by those who favored a *forfait*, or estimated-tax-base, system. As one vehement advocate put it, "Those carrying on business in a very small way, often illiterate . . . intimidated by the fiscal agents, ignorant of their rights, powerless to defend themselves — they consent to pay what is demanded of them, but they heap maledictions both on the tax to which they are subject and on the agents who have to collect it."[49]

A curious sidelight on the psychology of the French taxpayer is afforded by the suggestion made by a group of business men in 1920. To protect the taxpayer from undue vexation, they proposed that every three months a certain number of taxpayers be selected by lot to undergo inspection by the tax officials. If such inspection showed the taxpayer to have fulfilled his duties properly, he would be granted a partial or total refund of the tax to indemnify him for his time and labor taken up by the visit of the tax agents. But if he were shown to be in error, his tax due should be multiplied by three (mere negligence involved) or ten (more than mere negligence, but not outright fraud). If fraudulent acts were discovered, the State should take over his business for two years while he languished in prison.[50] This proposal well illustrates the two great fears of the French taxpayer: fear that tax agents will be prying into his business affairs at any time they choose, and fear that some competitor may be coining undue profits by adopting an unusually low standard of public morality.

Estimated Tax Base as a Substitute for Control. — What, then, did these victims of fiscal inquisition desire? Briefly, they wished to be relieved of the troublesome necessity of keeping books, of allowing the tax collector to inquire closely into business details, and of sending in the monthly statements and payments. Such a program would lead, of course, to taxation on a basis roughly estimated by the tax collector as best he might, with only external signs to guide him — number of employees, relative size of establishment, etc. This would be a true *forfait* system, a thing already familiar to certain groups of taxpayers, including those subject to: the commercial and industrial profits tax, where the gross receipts were used to estimate net profits; the agricultural profits tax, where profits were computed as a function of rent paid; the *patente*, or local business tax, where purely external signs were used.[51]

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[48] *D.P.*, 1923, *Ch.*, *S.E.*, p. 371 (No. 6627).

[49] *D.P.*, 1924, *Sénat*, *S.O.*, p. 254 (No. 274), Senator Jeanneney, reporting for the Finance Committee.

[50] *La Journée Industrielle*, March 20, 1920.

But at first the financial heads of the Government were not ready to grant this much. Bokanowski and Dumont, representing the Chamber Finance Committee in its report on the bill for amending the turnover tax, discussed at the beginning of 1921, warned the Chamber against the dangers of excusing any turnover-tax payers from keeping an accurate record of sales, and added that such records are "so rudimentary that it is hard to see what trouble they can cause the most modest merchant; a child can keep them."[52] They noted that any merchant who had a turnover of less than 50,000 francs a year would make few, if any, sales for more than 100 francs apiece, and was thereby excused from making a separate entry for each sale. Arbitrary taxation on an estimated base, with its complications of proofs, appeals, etc., would only add to the small taxpayer's burden.[53] Doumer, then Finance Minister, said that if the estimated-tax-base régime were granted to taxpayers with an annual turnover of 50,000 francs or less, 932,000 out of the 1,500,000 turnover-tax payers could come under this system.[54]

[51] A more radical proposal, by which the turnover tax would be transformed into an apportioned tax with the amount fixed each year beforehand, failed of support; its defects, such as the difficulty of finding an equitable base for subdividing the fixed amounts among départements, communes, and individual taxpayers, and the difficulty of keeping the import tax in line with the domestic tax from year to year, were too obvious. *Cf. D.P.*, 1921, *Ch.*, *S.E.*, p. 216 (No. 3385); for detailed criticism, *cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 7, 1922.

[52] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1146 (No. 2392).

[53] *Loc. cit.; cf.* also *ibid.*, p. 1498 (No. 2660).

[54] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2506 (June 2).

Even the representatives of the Indirect-Tax Administration, heartily sick of hunting out "this little village dressmaker, that little country artisan," and favoring total exemption of small taxpayers if nothing else helped, were unwilling at the time (1921) to see an estimated-tax-base system used because of its arbitrary and uncertain nature.[55] If absolutely necessary, it should be adopted; but its adoption would be a confession of the Administration's impotence.[56]

For the time being, then, the Government staved off the demand to release a large body of taxpayers from all control, though under the so-called *forfait* system existing at that time for the turnover tax, they were granted certain privileges as to time of payment.[57] This system had been little used; Table 6 (p. 80) shows that as late as 1923 only 12.13 per cent of the taxpayers under the Indirect-Tax Administration, paying 2 per cent of the tax, used the so-called *forfait* régime.

As protests continued, however, and difficulties of collection remained, the Government finally decided that the revenue to come from an exact control of the smaller taxpayers was not worth the expense and friction involved. Figures for 1922 (Table 3) showed that out of the 1,720,739 turnover-tax payers, 553,806, or slightly over 32 per cent, paid a yearly tax of less than 60 francs. This percentage might have been reduced had stricter control been made effective, but even granting there had been considerable understatement of turnover, the figures show clearly the mass of petty detail in which the Administration had been involved in attempting to collect a widespread tax which had no exemption limits. Figures for 1924 (Table 7, p. 109) tell the same story in different words; almost a million and a half retailers had a turnover of less than 300,000 francs a year, and they paid an average annual tax of 428 francs.

Table 5 — using data on number of taxpayers from Table 4 — shows the development over a period of years of the average tax paid. The increase from 1921 to 1926 cannot be accounted for by the higher price level alone.

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[55] *J.C.I.*, March 8, 1921, p. 129.

[56] *J.C.I.*, Feb. 8, 1923, p. 79.

[57] *Cf. infra*, p. 228.

TABLE 3. TURNOVER-TAX COLLECTIONS, 1922[a]

Subdivided by Classes of Taxpayers, According to Amount of Gross Receipts, and Tax Paid

Classes of Taxpayers (Total Tax Paid During the Year)	Annual Taxable Gross Receipts of These Classes[b]	Number of Taxpayers	Percentage of Total Taxpayers	Total Tax Collected from Each Group (in francs)	Percentage of Total Tax Collected	Average Tax Paid by Each Person in Each Group (in francs)
Less than 60 frs.	Less than 5,460 frs.	553,806	32.18	18,014,131	0.85	32.53
From 60 to 120 frs.	From 5,460 to 10,920 frs.	276,592	16.07	25,855,197	1.22	93.48
From 120 to 600 frs.	From 10,920 to 54,600 frs.	519,442	30.19	170,995,227	8.05	329.19
From 600 to 1,200 frs.	From 54,600 to 109,200 frs.	165,275	9.60	145,574,363	6.85	880.80
From 1,200 to 12,000 frs.	From 109,200 to 1,092,000 frs.	176,233	10.24	604,849,028	28.46	3,432.10
From 12,000 to 120,000 frs.	From 1,092,000 frs. to 10,920,000 frs.	27,741	1.61	655,677,570	30.85	23,635.69
More than 120,000 frs.	More than 10,920,000 frs.	1,650	0.10	504,251,091	23.73	305,606.72
Totals		1,720,739	100.00	2,125,216,607	100.00	1,235.06

[a] *D.P.*, 1923, *Ch.*, *S.E.*, p. 374 (No. 6627). *Cf.* also Table 7 for somewhat similar figures for 1924. These figures are for the total tax, as collected by the Indirect-Tax, Registration, and Customs Administrations. Analogous figures for 1922 and 1923, showing collections by the Indirect-Tax Administration alone, exhibit much the same distribution, with a slight increase in the taxpayers in the smaller groups. *Cf.* Table 9. In 1923, the Minister of Finance (De Lasteyrie) estimated, on the basis of 1922 figures, that *forfait* limits of 150,000 frs. and 40,000 frs. would allow inclusion of 1,500,000 taxpayers in the new régime, out of a total of 1,700,000. These 1,500,000 he said, paid only 358,000,000 frs. out of a total yield of 2,125,000,000 frs.; a figure too low, to judge from the table reproduced above, which shows over 360,000,000 frs. paid by those with turnover of less than 109,200 frs. *D.P.*, 1923, *Ch.*, *S.E.*, p. 159 (No. 6552).

[b] Figures for this column are from *D.P.*, 1924, *Sénat*, *S.O.*, p. 255 (No. 274). Apparently, "total tax collected" here includes that part levied for the départements and communes, as the figures in the Senate document indicate calculation at a 1.1 per cent rate.

TABLE 4

NUMBER OF TAXPAYERS SUBJECT TO THE TURNOVER TAX (NOT INCLUDING IMPORT TAX), 1920–1926[a] INCLUDING ALSACE AND LORRAINE FOR 1922 AND YEARS FOLLOWING

	1920		1921		1922		1923		1924		1925		1926		1927
	Number	Per Cent of Total	Number	Per Cent of Total	Number	Per Cent of Total	Number	Per Cent of Total	Number	Per Cent of Total	Number	Per Cent of Total	Number	Per Cent of Total	Number
Taxed by Indirect-Tax Administration, total.....	1,108,508	?	1,178,600	74.66	1,267,624	77.26	1,316,149	76.92	1,150,399[b]	75.66	1,608,676	99.44	1,651,593[c]	99.40	1,639,774[f]
First-class hotels, restaurants, etc., subject to luxury rate................	706	...	1,551	.....	1,933[g]	.....	2,248	.....	2,704[h]	.....	2,961	.....	3,301	.....	3,667
Second-class hotels, restaurants, etc., subject to semi-luxury rate.............	7,074	...	9,965	.....	13,410[g]	.....	14,920	.....	14,047[h]	.....	15,917	.....	16,420	.....	15,499
Taxed by Registration Administration, total.......	?	?	400,000[d]	25.34	373,000[d]	22.74	395,000[d]	23.08	370,000[d]	24.34	9,000[d]	0.56	10,000[d]	0.60	?
Total for both Administrations....................	?	?	1,578,600[e]	100.00	1,640,624[e]	100.00	1,711,149[e]	100.00	1,520,399[e]	100.00	1,617,676[e]	100.00	1,661,593[e]	100.00	?

[a] Except where otherwise noted, from annual "*Statistique des fabriques, etc., soumis aux exercices des agents des contributions indirectes,*" in *Bulletin de Statistique*, Nov., 1921, Dec., 1922–1924, Nov., 1925, Jan. and Dec., 1927 and Dec., 1928 (which also show the same figures subdivided by départements).

[b] Decrease due to exemption granted artisans, *façonniers*, etc. *Cf. infra*, p. 243. Note that figures in Table 7 show that this Administration handled slightly over 1,200,000 taxpayers having a turnover of less than 500,000 francs. The writer is unable to account for the obvious discrepancy.

[c] Of these, 67,480 were subject to the slaughtering tax, 1,317 to the fertilizer tax, and 263 to the coal tax.

[d] Estimates. The Registration Administration furnished the writer with tables showing the number of statements received each month. It is impossible to determine from these figures how many different people paid the turnover tax at one time or another during the year, but the writer has set the estimate close to the maximum number of statements for any one month. Yet Table 7 shows this Administration handling, in 1924, slightly over 430,000 taxpayers with a turnover of less than 500,000 francs. Taken in conjunction with the discrepancy noted in footnote *b* above, this is sufficient warning as to the approximativeness of any figures on number of taxpayers. Additional complication is involved by the shifting of certain groups of taxpayers from the Registration Administration to the Indirect-Tax Administration. This was most pronounced in 1925, and to avoid double counting, the 1925 estimate is made close to the number of statements received by the Registration Administration in October (9,599) when the change had been largely completed.

[e] Inaccurate, because of use of estimates for Registration Administration. *Cf.* footnote *d* above. The margin of error for the total figure is probably not more than 2 per cent.

[f] Of these, 72,815 were subject to the slaughtering tax, 832 to the fertilizer tax, and 276 to the coal tax.

[g] *Juris-Classeur Fiscal*, Div. N, No. 130, states that in 1922 174 *établissements* were taxed at the 10 per cent rate, and 3,079 at the 3 per cent rate. No source is given for these figures.

[h] *Cf.* Table 10 (*infra*, p. 114), where the totals come to 2,373 and 14,690 respectively.

TABLE 5

AVERAGE TURNOVER TAX PER TAXPAYER (NOT INCLUDING IMPORT TAX), 1920–1926

(In francs)

	1920[b, c]	1921[c]	1922	1923	1924	1925[d]	1926[d]	1927[d]
Collected by Indirect-Tax Administration, total[a]	226	575	638	825	1,253	2,575[e]	3,873	4,516
Second-class hotels, restaurants, etc., only	914	3,716	2,701	2,913	4,066	4,427	5,857	6,455
Collected by Registration Administration, total[f]	?	2,543	3,269	3,962	5,834	7,796[e]	9,977	?
Collected by both the above Administrations, total	?	1,074	1,236	1,549	2,368	2,604[e]	3,910	?

[a] Total collections figures taken from annual reports in August issues of *Bulletin de Statistique*. Figures for number of taxpayers are shown in Table 4. Collections figures used do not include fines or interest on overdue taxes, but do include collections at luxury rates.

[b] Six months only.

[c] Not including Alsace and Lorraine.

[d] Including replacement taxes (but not import replacement taxes).

[e] These figures are not as significant as the others. During the latter part of 1925 the Registration Administration was divested of most of its control over the turnover tax, in favor of the Indirect-Tax Administration. Therefore the writer has taken the tax receipts figures for the last quarter of the year, multiplied by four to put them on an annual basis, and divided (*a*) by the total number of taxpayers reported by the Indirect-Tax Administration for the year, (*b*) by 9,000 for the Registration Administration, which received 9,559 statements in October, 7009 in December, and 8,144 in December. The figure for second-class hotels, etc., is not affected by this change, this part of the tax having always been collected by the Indirect-Tax Administration.

[f] From data supplied by Ministry of Finance, both as to collections (*cf.* Table 20) and number of taxpayers (*cf.* Table 4).

Seventy-eight per cent of the taxpayers could have been entirely exempted from the tax in 1922, with a loss of only 10 per cent in the total revenue. The Government was facing the problem that always arises (at least in France) when an attempt at "universality" is made in taxation.

The situation did not differ greatly from that of the income tax on business profits. Sixty-eight per cent of those who paid the commercial and industrial profits tax in 1922 could have been exempted with a loss of only 6 per cent in the total revenue from that schedule.[58] Most of those paying the business profits tax were taxed on an estimated basis (by applying a profit cœfficient to their gross receipts), and so practically the same degree of contact with fiscal agents was necessary for both taxes. Yet the turnover tax had been heralded as much simpler to assess and collect than a profits tax. Why not give the small taxpayer a truly greater freedom from the turnover-tax collector than from the income-tax collector?

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[58] From data in *Renseignements Statistiques Relatifs aux Contributions Directes, 33^e^ année*, 1923, p. 206.

The chief objection would be the loss of control over the smaller taxpayers, both for the purpose of checking if possible the *forfait* estimates and to check on other taxpayers who would not come under this estimated-tax-base régime. But the loss might be less than at first supposed, because most of it had occurred already. The tax collector had discovered that the usefulness of requiring the turnover-tax payer to keep a list of his sales was conditioned by the possibility of checking this list with his other commercial records. With a wholesale merchant, for example, this could be done through inspection of his bookkeeping, letters he received from retailers, and his purchase receipts, which he had to show when requested. But the small merchant often kept no books other than the required sales register (if, indeed, he kept that), and his purchase records were fragmentary. Sometimes all the fiscal agent could learn was the address of the wholesalers from whom the small retailer had purchased his goods; the agent would then have to hunt up the wholesalers in question and inspect their records of sales to see how much they had sold to the retailer. This very important part of control would not be entirely lost by introducing an estimated-tax-base system for the small taxpayers. The agent would not be able to inspect the retailer's records, but he might still be able to find from the records of those wholesalers not under this new system how much the retailer in question had purchased. Knowing approximately the retail mark-up, he would have at least a rough basis for estimating the retailer's gross receipts. Likewise, there would still be available the records of the railroad stations (showing shipments, with addresses of consignor and consignee), slaughter houses, bridges, roads, etc. In addition the agents might interpret such "external signs" as, *e.g.*, average number of clients and scale of prices in a café, or the average number of sales made in a small grocery or clothing shop. The Chamber Finance Committee, which had previously opposed introducing an estimated-tax-base system, now thought that the tax collectors' three years of experience had surely given them good training along these lines.[59] As one of the officials in the Ministry of Finance explained it to the writer, the agents of the Indirect-Tax Administration are adept at employing "a psychological method" in guessing at one's taxable income or gross receipts.

In any case the *forfait* system was to be used for the smaller taxpayers; the large firms had too much variation from year to year in their gross receipts to risk such a régime.[60]

With the Finance Minister (De Lasteyrie),[61] the Senate, and the Chamber favoring an estimated-tax-base system, the next question was: how many taxpayers should it include? De Lasteyrie suggested that it be made available to all taxpayers whose gross receipts did not exceed 150,000 francs per year [62] (or 40,000 francs, if the taxpayer were an intermediary, *e.g.*, broker, banker, etc., and hence taxable only on commissions received).[63] This, he estimated, would permit 1,500,000 out of the 1,700,000 turnover-tax payers to benefit by the new system, which would allow complete freedom from inspection by the tax agents. The Chamber wanted to be more generous, and set the limit at 300,000 francs (100,000 francs for intermediaries). The Senate favored figures nearer those of the Government, and after a protracted disagreement, a compromise was arrived at, using the figures 200,000 francs and 40,000 francs. Henceforth, about a million and a half turnover-tax payers were freed from the necessity of keeping any records for purposes of this tax, from scrutiny by the tax agents, and from the trouble of sending in monthly statements and payments.[64] Because of the rise in the price level, the number of taxpayers under the new plan decreased by 104,622 in 1926 from 1925,[65] but this decrease was doubtless made up later when the 200,000-franc limit was raised to 300,000 francs.[66]

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[59] *D.P.*, 1923, *Ch.*, *S.E.*, p. 373 (No. 6627). For the Administration's instructions to tax agents on what external signs should be considered, *cf. infra*, p. 252.

[60] Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, Feb. 26, 1924.

[61] *Cf.* his speech before the Paris Chamber of Commerce, in the latter's *Bulletin*, 1922, pp. 876, 877.

[62] Rare indeed were the grocery stores in a large city such as Marseille whose monthly gross receipts were less than 10,000 francs, remarked that city's Chamber of Commerce. *Rapport*, Sept. 26, 1922.

[63] *D.P.*, 1923, *Ch.*, *S.E.*, p. 159 (No. 6552). For a proposal to extend a *forfait* régime to *all* turnover-tax payers, *cf. D.P.*, 1922, *Ch.*, *S.O.*, p. 84 (No. 3868).

[64] For the technical details of the *forfait* régime, *cf. infra*, pp. 250–253.

Even this has not satisfied the more independent spirits, who still dislike yearly contact with the tax agents for the fixing of the estimate. Hence the movement toward a series of "production" or replacement taxes, to be discussed in the next section, has not ceased.[67]

The estimated-tax-base system has not met with unanimous approval from business circles. It is said that it violates "the principle of fiscal equality," that an unstable price level may throw *forfait* estimates far out of touch with existing facts, and that it would be to the general advantage of all if small retailers were forced to keep more accurate account of at least their gross receipts.[68]

Undoubtedly the State is in a sense losing some revenue because of the system, especially as concerns the larger taxpayers. A merchant whose annual turnover is between 200,000 and 300,000 francs probably knows well enough what his exact turnover comes to, and if he adopts the new system it seems *prima facie* evidence that the State is losing money.[69] Furthermore, the system made control over the business profits schedule of the income tax more difficult, in so far as this tax was levied by applying a profit percentage to the taxpayer's gross receipts; after the estimate plan was established the Indirect-Tax Administration could no longer supply the Direct-Tax Administration with helpful information on this point.[70] This is no longer of consequence as the above method of taxing profits was abandoned at the end of 1926.

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[65] *J.C.I.*, June 15, 1928, p. 320.

[66] Which increase was favored by the Presidents of the Chambers of Commerce. Chambre de Commerce, Paris, *Bulletin*, 1926, p. 1576.

[67] *Cf. J.C.I.*, Feb. 8, 1926, p. 85.

[68] *Voeu du Congrès Commercial de Nancy*, cited in *J.C.I.*, Oct. 8, 1925, pp. 506, 507.

[69] *D.P.*, 1924, *Sénat, S.O.*, p. 256 (No. 274). A high official at the Finance Ministry remarked pessimistically that three times as much revenue would be collected from the present *forfaitaires* under the ordinary régime. *Cf.* also Allix and Lecerclé, *op. cit.*, p. 338, citing this among other points in an argument against the *forfait.*

[70] *Bulletin des Contributions Indirectes*, 1925, *Notes de service*, Nos. 271, 284.

TABLE 6

PER CENT OF TURNOVER TAX (COLLECTED BY INDIRECT-TAX ADMINISTRATION ONLY) LEVIED UNDER THE *FORFAIT* PLAN[a]

	1920	1921	1922	1923	1924[b]	1925[c]
Non-luxury sales	0.45	0.76	1.86	2.53	12.26	14.82
Semi-luxury hotels, restaurants, etc.	....	0.03	0.16	0.27	7.68	7.07
Luxury hotels, restaurants, etc., and sales at retail of luxury articles	0.02	0.05	0.43	0.32	2.26	3.95
Percentage of total tax collected under the *forfait* plan	0.36	0.61	1.61	2.00	9.69	12.40
Per cent of taxpayers under the *forfait* plan[d]	3.20	4.41	10.55	12.13	68.10	51.16

[a] Calculated from data in annual reports of Indirect-Tax Administration, published in August numbers of *Bulletin de Statistique.*

[b] Comparable to the figure 9.69 is the approximate percentage of the tax collected by the Registration Administration under the *forfait* system in 1924, 7.11 per cent. Comparable to 68.10 is 66, the approximate percentage of taxpayers under the Registration Administration paying under the *forfait* system in 1924. From figures supplied by Ministry of Finance.

[c] Including replacement taxes.

[d] Source: *Cf.* Footnote *a*, Table 4. For 1926 this percentage is 43.49; for 1927, only 29.95. For the other items in the above table, data are not available beyond 1925.

The Administration, however, is satisfied to have the estimate system; it is hardly worth while for a collector to spend several days checking up a tax of 250 francs, when he might be after larger taxpayers.[71] The Administration claims to have been lenient in approving the estimates, with the consequence that the arbitrating commission set up to care for disputes between taxpayer and tax collector has had little to do.[72]

Not all of the taxpayers who are allowed to, have come in under the estimate régime; those whose gross receipts fluctuate greatly choose the method of taxation on actual receipts.[73] But almost all the others that can, do use it.[74] Table 6 shows the extent to which it has been employed by those taxpayers under the Indirect-Tax Administration. The *forfait* system has doubtless come to stay as long as the turnover tax exists.

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[71] [72] [73] [74] Statements at Finance Ministry to writer.

Division of Control. — The question of collection and control of the turnover tax has been further complicated by the existing framework of the tax-collecting machinery. In France the collection and control of internal revenue is divided among the three administrative groups — the Direct-Tax, Indirect-Tax, and Registration Administrations. They are quite distinct from one another; so much so that an agent in the Indirect-Tax Administration, when he is worn out by the very active duties devolving upon the members of this branch, often has no alternative but to retire prematurely upon a small pension, instead of going into the Registration Administration where there are many more sedentary jobs available for tax collectors past their prime.[75] An agent entering one Administration from another is looked upon as an intruder, and is likely to find himself in disfavor.[76]

The Finance Minister in 1920, François-Marsal, was not blind to the difficulties of collection and control involved in the new tax.[77] At first he had thought of erecting an entirely new division to handle the turnover tax; but upon reflecting that this would mean drawing men from other divisions already understaffed, and putting in many "green" hands, he decided the existing bodies would have to do the best they could, dividing the new work among themselves. The Indirect-Tax Administration,[78] handling all turnover-tax revenue in communes of less than 5,000 population, would have slightly over one million taxpayers to watch. It could do this better than the other Administrations, as its agents in these communes travel from place to place in the course of their other tax collections. They could thus collect the tax and check up the taxpayers' books at the same time. In the larger towns, however, even this Administration relies upon tax agents who do not travel about, but remain in their offices, in this way having no advantage over the Registration agents. Therefore in all towns of over 5,000, the Indirect-Tax Administration would collect the turnover tax only from certain of those with whom it was already in contact: those subject to the license taxes, and the dealers in precious metals. The Registration Administration would deal with all other turnover-tax payers (including corporations, where it already had control rights for other taxes), save in the case of imports and exports where the Customs Administration would obviously be able to handle matters best. The fourth Administration, that of Direct Taxes, could assist the other three in checking the turnover-tax payers' records of receipts.

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[75] *J.C.I.*, June 1, 1925, p. 271.

[76] *J.C.I.*, March 1, 1925, p. 119.

[77] *Cf. D.P.*, 1920, *Ch.*, *S.O.*, p. 1037 *et seq.;* also, François-Marsal's remarks and those of the Registration director-general, in *Déb.*, 1920, *Ch.*, *S.O.*, p. 1322 (April 24).

[78] The French Tax Administration is composed of the Direct-Tax, Indirect-Tax Registration and Stamp, and Customs Administrations (*Régies*).

Despite this division of authority, the Registration Administration was in reality the chief division in charge,[79] as all matters of dispute were to be referred to it for settlement. It would have about 900,000 taxpayers to handle directly under the new levy; François-Marsal estimated that about 2,000,000 taxpayers would be involved all told, judging from the *patente* (local business tax) figures of 1913. Both these estimates were excessive (see Table 4).

The Registration Administration would need another bureau to add to the twelve then existing. In Paris alone, where 200,000 taxpayers would have to be cared for, a special turnover-tax director would have to be installed, and 450 clerks employed to keep accounts. The function of checking evasion would alone call for 130 new inspectors and sub-inspectors, most of them going to Paris. Indeed, the country districts were furnished with too many Registration tax agents, while the city districts were seriously undermanned.

The Indirect-Tax Administration would need 700 new agents, many of them necessitated by the turnover tax — 300 in Paris, 400 elsewhere. The Customs Administration, too, would require 182 new agents, partly because of the new levy. All in all, the Finance Minister wished an additional 10,796,000 francs to strengthen the entire Tax Administration. They were granted him, for the most part, in the 1920 budget. Of this amount, at least 7,000,000 francs appear to have been necessitated by the turnover tax alone.[80]

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[79] In Thierry's 1917 proposal, it apparently was to have complete charge of the proposed "expenditures tax." *D.P.*, 1917, *Ch.*, *S.O.*, pp. 882, 883 (No. 3452).

Splitting the collection and control among four Administrations was bound to lead to unequal treatment of the taxpayers. It was foreseen that those who were under the care of the Indirect-Tax Administration would be more strictly watched than those who paid the tax to the Registration Administration. This was partly because the former would in most cases collect the tax and inspect the books at the taxpayer's place of business, while an agent of the latter, inclined by habit to consider himself somewhat as "a sort of jurisconsul to whom one comes to submit certain documents [for registration]," [81] would wait in his office for the money to come in;[82] and partly because the Indirect-Tax Administration has had more experience in dealing with small taxpayers and prides itself on watching every elusive franc.

> If a merchant leaves town and disappears for four or five years, [explained an official to the writer] we nevertheless keep a record of the turnover tax he has left unpaid, and when he comes back, perhaps with some money, we keep after him. If the poorer taxpayers are unable to pay anything at the time, we wait until they get a little money and then collect what is due us, even taking a franc at a time if necessary.

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[80] These figures are on a yearly basis. In detail:

Registration Administration:	
450 clerks at Paris	2,126,250 frs.
50 inspectors	637,500
80 subinspectors	800,000
Central office additions at Paris and Lille	24,000
Total	3,587,750
Indirect-Tax Administration:	
400 *vérificateurs* and, say, one-half of 100 other employees needed	3,385,720
Total, both Administrations	6,973,470
Customs	?

Cf. D.P., 1920, *Ch.*, *S.O.*, pp. 1275–1277 (No. 812), 1940 (No. 1223).

[81] *J.C.I.*, April 22, 1925, p. 206.

[82] Deputy André Renard, in *D.P.*, 1920, *Ch.*, *S.O.*, p. 1942 (No. 1223); *cf.* also *ibid.*, p. 136 (No. 197), Deputy Barthe. A section of the Chamber protested against splitting the administration of the tax, but an amendment giving the Indirect-Tax Administration complete control was voted down *viva voce.*

The forebodings of administrative maladjustment were soon realized as it became apparent by 1921 and 1922 that a large section of the business world, either through fraud or mere carelessness, was not paying the turnover tax it should. The Registration Administration, especially, had found itself unable to meet this situation with the force in hand. The 100 special control agents created for the 1918–1920 "payments taxes" had been shifted to turnover-tax duties, and, as noted above, additional posts had been created in 1920; but 150 more had to be provided for in 1921, and for 1922 the Government asked provision for 226 additional Registration agents to assist in handling the new levy.[83] There would be difficulty in recruiting new agents, even if the money were authorized. High officials were leaving the Administration to go into business, for monetary reasons, and the whole Ministry of Finance was experiencing a crisis in personnel.[84]

The Senate Finance Committee was dissatisfied with the situation, and demanded that the Indirect-Tax Administration take over the turnover-tax duties of the Registration Administration.[85] Senator Chéron spoke of the "many methods employed by certain taxpayers to evade the turnover tax,"[86] and Deputies Taurines, Constant and others laid the blame for most of this upon the shoulders of the Registration Administration, claiming that its agents, sitting in their offices, knew little of the taxpayer's true situation and even when they did happen upon violations of the law, were content to demand light fines or none at all.[87] Such critics were kept from advocating concentration of control in the hands of the Indirect-Tax Administration only through fear of overburdening that busy and efficient organization.[88]

But it would be unfair to lay all the blame for administrative

[83] *D.P.*, 1921, *Sénat*, *S.E.*, pp. 262, 282, 283 (No. 819).

[84] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1 (No. 2002), report by Finance Committee on 1921 budget *projet*.

[85] *D.P.*, 1921, *Sénat*, *S.E.*, p. 283 (No. 819).

[86] *Ibid.*, p. 17 (No. 796).

[87] *D.P.*, 1921, *Ch.*, *S.E.*, pp. 215, 216 (No. 3385). *Cf.* also *Déb.*, 1921, *Ch.*, *S.O.*, p. 2500 (June 2), Deputy Choribit; Finance Committee report, *D.P.*, 1922, *Sénat*, *S.E.*, p. 36 (No. 624).

[88] *D.P.*, 1921, *Ch.*, *S.E.*, p. 216 (No. 3385). *Cf.* also *proposition de résolution*, by Deputy Bokanowski and many others, urging administrative reform: *D.P.*, 1921, *Ch.*, *S.O.*, p. 1708 *et seq.* (No. 2743).

laxness on the shoulders of the Registration Administration. The poor showing it made as to amount of tax collected was influenced by events beyond its control, which put it in an unfavorable light in comparison with the Indirect-Tax Administration. It dealt largely with "big business," which probably felt the economic depression of 1920–1922 — at least as measured in percentage decline of gross receipts — more severely than did the small retail tradesmen which the other administrative branch handled.[89] Table 7 (p. 109) shows that in almost every instance the taxpayers under the Registration Administration paid a larger tax per capita than did those under the Indirect-Tax Administration, the former Administration handling only one-third as many retailers (turnover under 500,000 francs) as did the latter. Tables 5 (p. 76) and 8 (p. 110) are also significant as to this point.

And if it was somewhat careless, the Registration Administration was not alone in its sins. The *Journal des Contributions Indirectes*, as late as 1925, accused the Indirect-Tax Administration of not realizing at first the importance of the turnover tax.

> Organization for collection of the new tax was at first done in a rather paltry manner, in such a way as to give the tax agents the impression that these were only accessory tasks, which, exception made for special agents, they could handle in their spare time.[90]

> We are [in 1926] far removed from the time [says the *Journal*] [91] when the heads of this Indirect-Tax Administration themselves were the first to be deceived as to the character and extent of the new tasks confided to them, on those matters in their new mission which were at once weighty and delicate. We heard certain of them say, at that time, that nothing was more simple, that it was merely a question of receiving declarations showing the nature and extent of turnover, and applying to these figures the proper rates. Experience was quick to reveal how far from the truth such a view was. . . . No levy known up to that time demanded from the tax agents more sustained vigilance, greater perspicacity, keener knowledge; none raised more delicate and even more difficult questions of interpretation, none necessitated such extensive and diverse information. The task of the [Administration's] personnel, in all ranks, became heavier because of it, but also more varied, and therefore more interest-

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[89] *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 7, 1922, p. 3, in which a strong argument is made against turning the entire collection over to the Indirect-Tax Administration.

[90] *J.C.I.*, April 22, 1925, p. 206.

[91] Nov. 15, 1926, p. 587.

ing; one had to inquire into things concerning which he had heretofore been completely ignorant, and be initiated into the most complex practices of commerce and industry.

For a while after 1920 there was no time to be given to learning these new lessons. The Administration, not realizing what it was facing, had failed to ask for enough men or money, and, "absolutely swamped with work, it had to limit itself to receiving the monthly statements sent in by taxpayers and to handling the payments, without exercising any serious control over the accuracy of the statements," with the result that many taxpayers came to feel that the amounts they submitted in their statements were to be "left absolutely to their own discretion." [92] The fact that business men formed a habit of evasion which passed undetected was one of the main reasons for the outbreak of protest that followed when the Administration finally found itself and began to employ the control measures that should have been employed from the very first.[93] Had the turnover tax been strictly enforced from the start, much less complaint of "inquisition" would have been heard later.

In 1924 and 1925 the situation was not helped by the continual clamor for the repeal of the turnover tax, and the attitude of uncertainty which this engendered. The Chamber Finance Committee's report on the 1925 budget,[94] especially, gave many tax agents the impression that the turnover tax was doomed to at least partial abolition, and they lost interest in checking up on taxpayers' declarations.[95]

The necessarily sedentary habits and reputed casualness of the Registration agents were not the only things pointing toward a unification of collection of the domestic tax under the Indirect-Tax Administration. Conflicting interpretations of the law had occasionally been sent out by the two Administrations,[96] and as late as February, 1921, no uniform rules of procedure in case of disputes had been furnished the tax collectors, many of whom probably thought it not worth while to attempt to prosecute the taxpayers under the circumstances.[97] It was not always easy to use the information from the taxpayer's books to check up on another taxpayer's turnover,[98] when the taxpayers were under different Administrations.[99]

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[92] *J.C.I.*, Feb. 22, 1921, p. 106.

[93] *Cf. J.C.I.*, Feb. 8, 1923, p. 78.

[94] *Cf. supra*, pp. 33, 34.

[95] *J.C.I.*, April 22, 1925, p. 206.

[96] *Déb.*, 1925, *Ch.*, *S.O.*, p. 2814 (June 24).

[97] *J.C.I.*, Feb. 22, 1921, p. 107.

Caillaux therefore recommended in 1925 that the Registration Administration be relieved of most of its burden. It was estimated that this change, which was ordered [100] in May, 1925, would increase the turnover-tax yield by 400 million francs.[101] There is no way of checking this estimate, but undoubtedly it was a wise step to concentrate the collection of the domestic tax in the hands of the Indirect-Tax Administration, leaving to the Customs imports and exports.

But the heavy burden thus thrown on the Indirect-Tax Administration has not been easily carried. As late as July, 1929, it was found necessary to vote a special credit of a million and a half francs for reorganization of the Administration, made imperative by the turnover tax.[102]

Method of Payment. — The "payments taxes" on retail sales, which were superseded by the turnover tax, had been collected largely by the use of stamps. This method was abandoned in the turnover tax; when Deputy Guérin proposed that it be retained, prompt objection was made by Bokanowski, who recalled the complaints of merchants under the 1918–1920 taxes. They had found that the system of affixing stamps to their books and bills of sale was costly, as they had to pay the money to the Treasury before the tax was legally due, and they ran the risk of loss through negligence of employees in handling the stamps. The Treasury, too, had found the method facilitated fraud in some cases.[103]

The most common method of payment, at least in the early years of the turnover tax, was to bring cash to the tax collector's office. Much friction was caused when taxpayers were forced to wait in line in crowded offices.[104]

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[98] *Cf. supra*, p. 51.

[99] *J.C.I.*, July 1, 1925, p. 331.

[100] By *décret*. *Cf. infra*, p. 256.

[101] *D.P.*, 1926, *Sénat*, *S.O.*, p. 78 (No. 84).

[102] *Cf. J.C.I.*, Aug. 1, 1929, p. 354, citing report of Fernand Faure.

[103] *Déb.*, 1920, *Ch.*, *S.O.*, pp. 1323, 1324 (April 24).

[104] *D.P.*, 1922, *Sénat*, *S.E.*, p. 37 (No. 624); *D.P.*, 1920, *Ch.*, *S.E.*, p. 239 (No. 159). *Cf.* suggestion in *J.C.I.*, Dec. 8, 1924, pp. 601, 602, for splitting the work of receiving payments and receiving statements between two sets of tax officials, as is done in the income tax.

Payment can be made by check, money-order, etc.,[105] but such methods were contrary to the taxpayers' habits and apparently were not encouraged greatly by the Administration,[106] although François-Marsal had hoped that check payment would become general.[107]

Taxpayers have asked that a system of annual statements, with quarterly payments, be extended to all,[108] one suggestion being that the levy be collected in the same manner as the business-profits tax, *viz.*, by yearly tax rolls based on the preceding year's business.[109] Although this has not been granted (save for those who are under the estimate system and thus are excused from keeping any record of gross receipts), any taxpayer with a permanent place of business may send in annual statements only, provided he pays the tax in monthly or quarterly installments. This has undoubtedly reduced greatly the paper work connected with the tax.[110]

Even such a matter as time and method of payment has given rise to eloquent speeches, in the Chamber, as the sad situation of the taxpayer has been exposed. The following examples are worth quoting as showing what a Finance Minister has to worry about:

> M. Louis Puech: I touch on another point the importance of which may seem less because for several years we have become accustomed to speak here only in billions, but I assure you that for those — alas, so numerous — whose life is laborious and who earn their bread by the sweat of their brow, even a modest sum of 3, 5, or 10 francs is not negligible. [Applause.] It is well that the Administration should realize this.
>
> Most of the taxpayers had thought that to pay the turnover tax it would be enough to send a check or a postal-order. But the sending of a check or a postal-order has appeared insufficient to the Administration.
>
> Here is, in fact, the answer sent by the Administration to a *commerçant* who, not wishing any other receipt than the postal-order he had sent, thought it possible to limit himself to this postal-order:
>
> "In reply to your letter of the ——, I have the honor to inform you that

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[105] *Cf. infra*, p. 229.

[106] *D.P.*, 1922, *Sénat*, *S.E.*, p. 52 (No. 624).

[107] *D.P.*, 1920, *Ch.*, *S.O.*, p. 1041 (No. 850).

[108] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2510 (June 2); *D.P.*, 1920, *Ch.*, *S.E.*, p. 261 (No. 1631); Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 7, 1922.

[109] *D.P.*, 1924, *Ch.*, *S.E.*, p. 282 (No. 855).

[110] For legal development of this point, *cf. infra*, pp. 227, 248.

your monthly payment on your turnover should always be accompanied by a copy of the inclosed form, by a receipt-stamp of 25 or 50 centimes or 1 franc corresponding to the payment made, and by a franked envelope for return of the receipt.

"Please call at my office to get the receipts which will be given to you upon payment of the sum of ——."

I do not know if there exists a provision of the law making a demand for a receipt obligatory. If this provision exists, it must be abolished.

Why, in fact, make the taxpayer take a receipt he did not ask for? Why impose upon him this expense and this loss of time?

To take paper, write the address, stamp the envelope, to put in this letter an envelope, after having put his own address on it, and to follow all this by another stamp — why all these formalities, which represent an expense of 12, 14 or 20 francs per year, and valuable labor? This all matters for the small merchant. [Applause.] It does not matter for the Crédit Lyonnais or for the Société Générale, but it is not negligible for the taxpayers whom the tax literally crushes and who have practically no employees. [*Très bien! très bien!*] [111]

M. Louis Puech: Another strange thing. The president of the *Chambre Syndicale* of Saint-Calais gives us information, peculiarly suggestive, on the manner in which the turnover tax is recovered in his part of the country. The invitation to pay is made in a military manner, to the sound of a drum. The tax collector has a warlike temperament, as you can see.

I read the document —

"The head of the post of indirect taxes of La Châtre, *chef-lieu* of a rather important canton of my arrondissement, convokes the *commerçants* of the city each month to the sound of the drum, to come to pay their tax in one of the rooms of the town-hall. . . . M. Roux, wheelwright, did not hear the drum. . . . He received on January 23, 1921, a notice to come to pay his tax due for November, within 48 hours, under penalty of prosecution. To get to the permanent office, whence he was so rapidly summoned, M. Roux had fourteen kilometers to go."

Fourteen kilometers! Well, I should say he must have had a large sum to pay —

M. Le Rapporteur-Général Adjoint: That is why he did not hear the drum.

M. Louis Puech: In fact, an enormous sum! He had to pay to the Treasury the sum of — 60 centimes! [Laughter.] [112]

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[111] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2503 (June 2).

[112] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2504 (June 2).

CHAPTER IV

WHAT EXEMPTIONS SHOULD BE ALLOWED?

The turnover tax seizes for the State a certain per cent of money payments made in exchange for commodities delivered and services rendered. But it does so only as concerns payments made in the ordinary course of "business," *i.e.*, transactions among manufacturers and merchants and their customers; the State claims no share in payments received by certain economic classes such as farmers, laborers, and professional men. Furthermore it also renounces its claim even on business payments received from the sale of certain classes of commodities and services.

These two types of exemptions — of persons and of things — have sprung from different motives. The first, usually not noted specifically in the law but implied by the phrasing of the statute, have originated from a desire to avoid political unpopularity, from a fear that the burden of the tax could not be shifted to the ultimate consumer as intended by Parliament, and from a wish to avoid administrative difficulties. The second — exemption of sales of certain classes of commodities and services within the business sphere, noted explicitly in the law and added to since 1920 — have been adopted because of other taxes on these sales and because of a desire to lessen the burden on the poorer classes as ultimate consumers.

Farmers. — The logical reason for exempting from the turnover tax farmers' sales of produce grown by themselves would seem to be the probability that the tax would not be shifted to consumers as quickly and to such a degree as taxes on business payments,[1] an outcome which would not be in line with Parliament's often expressed intention that the tax should be passed on and on until it rests upon that anonymous beast of burden, the ultimate consumer. But it is doubtful if this consideration played much part in France. The reasons for the exemption must be sought elsewhere.

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[1] *Cf.* National Industrial Conference Board, *General Sales or Turnover Taxation*, pp. 47, 48.

One of them was based on exactly the opposite of the assumption outlined above. In 1920, when the cost of living was rising rapidly, Parliament hesitated to levy any tax which it thought might increase the great mass of consumers' food bills.[2] True, it expected that the tax as levied on business firms would be passed on to the consumer and so increase living costs for almost everyone; but there was apparently a feeling that one could and even should save on clothing, household articles, etc., and pay the difference in taxes, whereas the consumption of food should not be restricted any more than was necessary. This aim may not have been achieved in many cases, for the consumer remained a free agent, and might choose to spend less money on untaxed food in order that he might spend more on taxed articles of commerce. But the aim remained, and also found expression in the second class of exemptions — those of classes of commodities — as concerns bread,[3] and later grain and milk.

This reason is somewhat weakened, even granted that the tax could be shifted, when one considers that once food products have left the hands of those who produce them, they are taxable just as are other goods. Merely filling up the gap by levying a 1.1, 1.3, or 2 per cent tax on sales by farmers would not have created a very heavy additional burden for the consumer.[4]

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[2] *Cf. Documents Parlementaires*, 1920, *Chambre*, *Session Ordinaire*, p. 243 (No. 589).

[3] Exempted also because it was thought the baker would find it impossible to shift the tax to the consumer. *Cf. D.P.*, 1920, *Sénat*, *S.O.*, p. 83 (No. 201). *Cf.* also *infra*, pp. 222, 223.

[4] In 1924 there was under consideration the exemption of sales and imports of soft wheat and rye destined for use in bread. Two estimates were made of the effect of this exemption on the retail price of bread: (1) two to three centimes per kilogramme (*cf. projet* by Ministers of Agriculture, War and Finance, *D.P.*, 1924, *Ch.*, *S.E.*, p. 137 [No. 699]); (2) three and one-tenth centimes per kilo for bread made from foreign wheat, one and sixty-eight hundredths centimes if made from French wheat, with maximum benefit to consumer of one and a half centimes per day (*D.P.*, 1924, *Sénat*, *S.E.*, p. 653 [No. 702]). The Treasury loss from this small relief to the consumer was estimated at 140 million frs.; *ibid.* Despite these arguments the exemption was passed. *Cf. infra*, p. 255.

Administrative difficulties, however, offered another excuse for exempting farmers' gross receipts.[5] The farmers of France, most of them operating on small plots of ground,[6] are largely strangers to bookkeeping and apparently do not even know what their gross receipts approximate.[7]

But this argument, too, is much weakened when it is recalled that since 1924 the vast majority of turnover-tax payers need keep no record of sales. Under the *forfait*, or estimated-tax-base, system, the tax collector checks the estimate of total turnover which is furnished him by the taxpayer, by whatever information he can gather outside the latter's establishment. The task would be more difficult in the case of farmers, for there would be no suppliers to question, to learn how much the taxpayer had purchased, and hence how much he had probably sold. But the Indirect-Tax Administration agents could probably guess with a fair degree of accuracy in most cases, and if the smallest farmers were exempted, the task would be made much less difficult without great loss in revenue.

There is a more substantial reason for the existing policy, and it is a combination of political expediency and social philosophy.

Of the 626 deputies entering the new Chamber in 1920, 104 were landowners or farmers or closely allied to these, while only 50 were manufacturers.[8] Figures for 1921 show the rural population at 21,004,000, the urban population at 18,206,000.[9] These figures do not indicate the full extent of the political power of the farmer, for the country is given more representation per capita than the city districts. Deputy Artaud, representing the business interests, declared that "agriculture is exempted from the turnover tax because it has a majority, and for no other reason. . . . The limitation of the turnover tax to commerce is the strongest and most characteristic example of the oppression of a commercial minority by an agricultural majority." [10] His concern was the more genuine because he believed that in periods of deflation and business crisis, such as 1921, the tax was borne by the seller.[11] The farmers and their representatives, too, must have believed the seller did not entirely escape the economic burdens of the tax, else they would not have been so concerned over the exemption privilege, though it must be admitted that in so far as they held this belief they were estopped from advancing the plight of the poor consumer as a reason for the exemption. But even if it could have been demonstrated to them with the certainty of astronomy that they would bear no financial loss through the tax, they would have fought for exemption, so unwelcome is the mere presence of the tax gatherer to the average Frenchman.

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[5] *Cf.* remark in *Journal des Contributions Indirectes*, that farmers are indeed exempted solely because it is impossible administratively to tax them; hence farm coöperatives, keeping records, should not be exempted from the tax, for they can be reached. March 8, 1921, p. 130. Statements at the Finance Ministry to the writer reveal the same feeling that the farmer would be game too elusive to make the hunt profitable.

[6] In 1892, 2,235,405 of the total 5,702,752 farms were one hectare or smaller in size, and 1,829,259 were between one and five hectares. *Annuaire Général* (Paris, *Larousse*, 1928), p. 695.

[7] *Cf.* the assertion that even many agricultural coöperatives keep no gross receipts figures. *D.P.*, 1921, *Ch.*, *S.O.*, p. 1497 (No. 2660). Deputy Rendu declared that of the 6,000 agricultural *syndicats* existing, 4,000 have less than 300 members, and keep no books. *Débats*, 1921, *Ch.*, *S.O.*, p. 2699 (June 14).

[8] London *Times*, Dec. 8, 1919.

[9] *Annuaire Général*, 1928, p. 18.

Time and again favor has been shown the French farmer in framing tax legislation, and the turnover tax proved no exception.

In addition to the political pull of votes, there is in many circles in the large towns, apparently, a desire to "keep the farmers on the farm." As one lawyer explained to the writer, it is highly undesirable that the agricultural population should drift to the cities, there to form perhaps idle and discontented groups susceptible to the wiles of agitators. This attitude is not peculiar to business circles:

> The sacrifices made by the State [declared Deputy Gavoty, in 1921] through subventions and through the abandonment of taxes such as the *patente*, license taxes, and registration taxes have been largely compensated for by intensified production. . . . It is indeed necessary to realize that if we now have social peace, we owe it to the farmers — to the farmers, supported by their coöperative *syndicats*.[12]

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[10] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1501 (No. 2662). To the same effect *cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, June 7, 1921.

[11] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1500 (No. 2662).

[12] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2698 (June 14).

A measure which had any possibility of driving the farmers from the land was thus studiously to be avoided.[13]

It seems likely that these last reasons have been the most forceful ones in saving the farmer from the turnover tax, though the difficulties of collection were certainly not to be underestimated in 1920, at a time when the Government was not yet willing to establish a true *forfait* system for any group of turnover-tax payers.[14]

With the sole exception of the slaughtering tax, the farmers have successfully avoided the turnover-tax system as concerns products of their own lands. In 1923, both houses passed a measure taxing sales of perishable products in the markets of Paris and certain other large cities, no matter by whom these products were sent to market. The tax was to have been due, legally, from the purchaser, but collected by the agent of the seller, and turned over to the Treasury.[15] This would have taxed many sales by farmers. The measure has not become law, however, as it formed part of a larger bill to amend the turnover tax which has never been passed as a whole.

Industrial and commercial interests have consistently protested against the exemption of farmers from the turnover tax. When the former advocated the adoption of a turnover tax in 1920, it was with the understanding that agriculture would be subjected to it.[16] Despite such protests, no Finance Minister has dared advocate extension of the tax to farmers, and its proposal by others has been promptly voted down.[17]

Some idea of the amount of money the Treasury is losing through the exemption of farmers may be had from the following data:

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[13] A prominent representative of manufacturing interests told the writer he did not want to see the farmers taxed; not having much ready money, they would find their circulating capital seriously depleted by such a levy, and since they do not have ready access to credit, they would soon be in great difficulty.

[14] *Cf.* report by Doumer, Senate Finance Committee. This report declared it was better to reach the farmers by increasing the agricultural-profits tax. But since the business-profits tax was increased at the same time, this reasoning loses some of its force. *D.P.*, 1920, *Sénat, S.O.*, p. 83 (No. 201).

[15] For Chamber Finance Committee's favorable opinion, *cf. D.P.*, 1923, *Ch., S.O.*, p. 1069 (No. 5913).

[16] Chambre de Commerce, Paris, *Bulletin*, 1920, pp. 138, 139. *Cf. supra*, p. 15.

[17] *Déb.*, 1921, *Ch., S.O.*, pp. 2692, 2693 (June 14).

Value of Agricultural Products Raised in France[18]

Year	*Product*	*Value of total crop in francs*
1925	Potatoes (of which exports were 145,994,000 frs.)	6,080,000,000
1925	Wine	5,338,952,000
——[19]	Grain	3,684,658,260
1926	Silk	100,204,370
1925	Beets	90,590,000
	Total	15,294,404,630

Even allowing one-half off as non-taxable because of use before sale, exportation, exemption of certain grains, and evasion, a tax yield of over 145 millions would accrue to the State from taxation of these products alone, at the present 1.9 per cent rate.

Liberal Professions. — Why was not the turnover tax framed so as to strike the gross receipts of doctors, lawyers, accountants, and other professional men, as well as the business man? Deputy Bokanowski of the Chamber Finance Committee suggested that it was because the old feeling of the "honorary character" of such revenues still survives, and because of the difficulty — in theory, at least — of shifting the tax to the "consumer," which was the intention of the legislators.[20] A more powerful reason, however, was the virtual impossibility of control. The Administration was having trouble enough with the income tax as applied to "non-commercial" revenue, to wish any more difficulties upon itself at a time when conditions dictated a tax relatively easy of application and control. Whatever the true reason may be, no serious effort has yet been made to include such receipts within the turnover-tax structure, and there is no indication that this attitude will be changed.

Labor. — Using the word in its widest sense one finds that labor receipts, in contrast with receipts covering merely the cost of some

[18] *Annuaire Général*, 1928, pp. 696–706.

[19] Average for several years.

[20] *D.P.*, 1920, *Ch.*, *S.O.*, p. 243 (No. 589).

commodity bought and resold, are sometimes taxable and sometimes not, under the turnover tax. That is, in some instances the amount of tax due varies with the size of the labor payment; in other instances, there is no connection between the two. The latter situation is the general one: the size of a manufacturer's payroll has no direct influence upon the amount of turnover tax due by him or anyone else. But the size of the commission he pays to an independent broker for the latter's services does bear directly upon the amount of revenue received by the State, as 2 per cent of such payment must be given up (by the broker) as turnover tax.[21]

Thus a distinction arises between compensation for labor (or business services): (*a*) when the supplier thereof is bound to someone else from whom he receives periodic payments, (*b*) when he is a free agent, receiving his payment from many different sources, practically at his own choosing.

Why should such discrimination be made? Probably the thought back of Parliament's action was that those bound to someone else and receiving more or less fixed payments would have difficulty in shifting the tax. A more obvious reason was the certainty of an outcry from the great mass of voters in the cities, should they find that to the existing income tax on wages and salaries there was added a gross income tax, shiftable or unshiftable; such a measure would have impaired the "impersonality" of the tax, so often cited as one of its great advantages. Furthermore, the turnover tax was intended — for whatever reasons — as a tax collectible from "business," and only those who had some control over the currents of business should be called upon to pay the levy. Had brokers, etc., been entirely exempt, trade channels might have been even more seriously disturbed than they have been.[22] No serious proposal has been backed in Parliament to extend the turnover tax to gross receipts from all labor in general.[23]

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[21] For legal details, *cf. infra*, pp. 208, 209.

[22] François-Marsal, wishing to maintain the existing system of distribution, proposed taxing brokers, etc., not 1.1 per cent but 10 per cent (on their gross commissions); *D.P.*, 1920, *Ch.*, *S.O.*, p. 315 (No. 376). The question arises, however: would this rate be high or low enough to put on an equal tax footing the two methods of doing business? If there are given two of the three elements — rate of tax on commissions (x), rate of tax on sales (r), and rate of commission (y) applied to sale price ex-commission — the third element may be determined by the formula $xy = r$. Thus François-Marsal's proposal assumes a commission rate of 11 per cent. The above formula is based on the assumption that the two groups of transactions to be compared are as follows: (I) B

The principle behind this exemption was touched upon, however, in the debates over artisans and *façonniers* (domestic-industry workers).[24] The payments the latter receive are solely for labor furnished, as they do not own the raw material on which they work. The artisan presents a more difficult problem; his gross receipts are not pure wages, but almost so, for he uses little or no machinery, and material purchases form a small part of his costs.

Being subject to the business-profits schedule of the income tax, both of these types of workers had to pay the turnover tax. Protest against this was voiced in the Chamber as early as November, 1920,[25] but Bokanowski and Dumont, for the Chamber Finance Committee, at first agreed with the Government that exemption should not be extended to the artisans, whom they considered essentially small manufacturers. Since the tax was one on consumption, they argued, "which should, in principle, be incorporated in the [sales] price . . . and should be borne in the end by the consumer, it cannot be seen why the purchaser should be exempt from the tax when he buys from the artisan." [26]

The *façonniers*, on the other hand, who differ from factory

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acting as a broker: A sells to C for 100 frs. plus B's commission (11 frs.), the whole (111 frs.) taxed at 1.1 per cent, tax of 1.221 frs.; B's commission also taxed, at 10 per cent, tax of 1.1 frs.; total tax, 2.321 frs.; (II) B a buyer and seller: A to B for 100 frs., taxed at 1.1 per cent, tax of 1.1 frs.; B to C for 111 frs., taxed 1.1 per cent, tax of 1.221 frs.; total tax, 2.321 frs. If in (I) above, the commission be paid to B by C instead of by A, or if for any other reason the commission paid to B does not have to be included in calculating A's taxable receipts, the formula becomes $xy = r(1 + y)$. Note that it is in any case assumed here that the commission rate is applied to the sales price ex-commission. The marked discrimination in rates, as proposed by François-Marsal, has never been adopted, though for a short time in 1926 functional middlemen were discriminated against slightly. *Cf. infra*, p. 260.

[23] Certain business circles have suggested that only the increase in value given to a product by the taxpayer be subject to the turnover tax, and as a measure for this they would take the amount of labor employed. *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 4, 1927.

[24] For legal developments, *cf. infra*, pp. 243–245.

[25] *D.P.*, 1920, *Ch.*, *S.E.*, p. 261 (No. 1631); *Déb.*, 1920, *Ch.*, *S.E.*, p. 3271 *et seq.* (Nov. 19, 20, 1920); *Déb.*, 1921, *Ch.*, *S.O.*, pp. 2681–2683 (June 14). François-Marsal advocated exemption of *façonniers*, in *D.P.*, 1920, *Ch.*, *S.E.*, pp. 400–404 (No. 1760).

[26] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1141 (No. 2392).

workers only in that they work at home, and who never take title to the goods they work on, should, they thought, be exempt. Such are the clock workers of the Jura and the silk weavers of Lyon. Fishermen, too, should be exempt, but on other grounds, *i.e.*, for the same reason that farmers were exempted, that foodstuffs might not rise in price.[27]

The Chamber was not willing to exclude artisans from the proposed change, which involved not only exemption from the turnover tax, but also transference from the business-profits schedule of the income tax to the less burdensome salaries and wages schedule. Their likeness to ordinary factory labor was urged, though this similarity admittedly disappears when the artisan buys and resells commodities to any extent, as sometimes occurs. It was also claimed that these small laborers or semi-business men could not shift the tax as readily as the true manufacturer or merchant — the small shoemaker would not add 10 or 15 centimes to his charge for shoe repairing, but would continue to ask the same round sum,[28] perhaps through the binding force of custom or ignorance of true costs.

The final result was an earnest attempt to distinguish between those artisans and *façonniers* whose gross receipts represent almost entirely payment for manual labor and those whose position more nearly approaches that of the merchant or the manufacturer. Standards of number of assistants employed,[29] amount of machinery used, and proportion of gross receipts representing sale of commodities purchased from someone else, were set up, either in the law or in subsequent administrative regulations.[30] This necessitated extreme care in the choice of language,[31] and even today questions as to individual cases are still arising in large numbers.

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[27] *D.P.*, 1921, *Ch.*, *S.O.*, pp. 1141, 1142 (No. 2392). Agreement seemed fairly general that *façonniers* — as opposed to artisans — should be excused from the turnover tax. *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 8, 1921.

[28] *Déb.*, 1921, *Ch.*, *S.O.*, pp. 2687, 2688 (June 14), Deputy Courtier.

[29] *Cf. D.P.*, 1922, *Sénat*, *S.O.*, p. 431 (No. 409), for the contention that no assistants at all should be allowed if the artisan or *façonnier* wished to be exempt. A good survey of the various definitions of "artisan" is given here. For the more liberal attitude of the Chamber, *cf. D.P.*, 1922, *Ch.*, *S.E.*, pp. 540, 541 (No. 5274). Dire results were predicted for the domestic hosiery business of the Aube region, unless *façonniers* were allowed to have five assistants each without losing exemption from the turnover tax. *D.P.*, 1924, *Ch.*, *S.O.*, p. 358 (No. 7145).

[30] For details, *cf. infra*, pp. 243, 244.

This action may seem contrary to Parliament's original stand whereby distinction was made between payments for labor rendered by one bound more or less to one employer (manual laborer, clerk, corporation official) and that rendered by an independent agent (broker, commission merchant), for the *façonnier* to a certain extent, and certainly the artisan, are independent in this sense. But the distinction, although fundamental, was largely an unconscious one; the exemption of artisan and *façonnier* can be justified through another distinction, also not directly expressed, as noted above;[32] *viz.*, that between the man who controls directly or indirectly the buying and selling of commodities and the man who does not have such power. On this basis it was logical enough to exempt artisans and *façonniers;* however independent they might or might not be, they had little hand in guiding the articles of commerce through trade or manufacturing channels.

Coöperatives. — The existence of coöperatives, especially consumers' coöperatives, is so widespread in France that their taxability, both under the business-profits schedule of the income tax and under the turnover tax, has been an important question. Far more clearly than in the cases already considered, the point at issue here is whether or not a certain group shall be shown special favor. The large consumers' coöperative, buying in advance of orders and reselling to its members whenever they choose to buy, is so like the ordinary wholesale and retail merchant that to exempt its gross receipts from the turnover tax is to grant an important privilege to the members of the organization. For several years the Administration excused practically all of them from the tax, but at present they are under virtually the same régime as the independent merchant. The history of their losing fight against taxation is largely one of political power and social philosophy (as in the case of the farmers) against a clear-cut feeling of opposition to special privilege.

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[31] At one point there was much concern over the choice among the adverbs *principalement*, *exclusivement*, and *essentiellement*. *D.P.*, 1923, *Ch.*, *S.O.*, p. 1350 (No. 6244); *cf.* also *ibid.*, p. 1317 (No. 6243).

[32] *Cf. supra*, p. 96.

During the war consumers' coöperatives increased in strength, and it is claimed they were able to bring pressure upon the Government to favor them in allocation of scarce foodstuffs, priority of transportation, etc.[33] When the commercial- and industrial-profits tax was levied in 1917, the directors of the Fédération Nationale des Coöperatives de Consommation were able to secure from Parliament exemption from this schedule of the income tax for all coöperatives which did not resemble ordinary business corporations — *i.e.*, did not sell to others than members of the coöperatives and then split the profits from such sales among the members.[34]

When the turnover tax was levied in 1920, the Fédération is said [35] to have used its influence at the Ministry of Finance to obtain the administrative ruling that coöperatives were exempt from the turnover tax if they were of such a nature as to be exempt from the profits tax.

Business circles at once became exercised over this exemption, which they claimed gave the coöperatives a noticeable advantage over the retail merchants.[36] The Chamber Finance Committee declared in 1921 that the Administration's ruling was counter to the wishes of the Chamber, which had put in the "buy to resell" clause [37] purposely to tax consumers' coöperatives. The universality of this consumption tax was one of the conditions of its existence, declared the Committee; such a heavy tax would become intolerable if anyone were allowed to avoid it. The only coöperatives which should escape taxation on their gross receipts should be those acting only as true intermediaries, not taking title to the goods, but ordering a specific kind and quantity of goods upon the request of a member, who was legally bound to accept such goods when the coöperative received them. Such coöperatives should be taxed of course only upon the receipts from "commissions," not upon the total amount of money passing through their hands. But all others should be taxed on the gross receipts coming from the sale of the goods they had purchased.[38] At that time the Chamber assented to this doctrine.[39]

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[33] *Cf.* tract by the Union des Intérêts Économiques, extract printed in *J.C.I.*, Aug. 8, 1926.

[34] *Cf. infra*, pp. 253–255, for legal details.

[35] *Cf. supra*, note 33.

[36] *Cf.* Chambre de Commerce, Paris, *Bulletin*, 1920, pp. 1222, 1290; Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 8, 1921.

[37] *Cf. infra*, pp. 202, 204.

This was, in effect, the solution finally adopted.[40] Important court decisions in 1924 overthrew the Administration's interpretation and declared coöperatives taxable whenever they bought to resell, that is, took title to the goods they handled instead of acting merely as commission merchants or brokers.[41]

But the coöperatives were powerful enough to delay application of the Court's ruling for two years,[42] and meanwhile various alternatives were considered by Parliament.

The Commerce Committee of the Senate, for instance, had proposed to tax merely as intermediaries, on their "profits" or commissions, those coöperatives which sold only to their own members, distributing the profits *pro rata* among the purchasers. The tax could then apply to the total sales of those which sold to all comers, and spent large sums for advertising.[43] Clémentel had a similar idea; he thought the situation should be guided by the rules of taxability under the business-profits tax. If the coöperatives were conducted in such a way as to be subject to this tax, they should be taxed on their gross sales; otherwise — even though they "bought to resell" — they should be taxed only as intermediaries, on their "commissions," or amounts cleared above buying expenses.[44] This would have maintained, approximately, the *status quo* as established by the Administration before the court decisions of 1924.

The matter was argued at length in 1925, taking up much precious time when the budget bill was under discussion. The Chamber, reversing the stand of the old Finance Committee of 1921, favored exempting sales by consumers' coöperatives to their members, such operations to be struck only by a tax on the commission or profit received by the coöperative. Thus consumers' coöperatives which sold only to their members would be treated wholly as intermediaries, taxable on commissions received, not on sales made, despite the fact that they, like wholesalers and retailers, took title to the goods in the process.[45]

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[38] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1142 (No. 2392). *Cf.* also resolution by Presidents of Chambers of Commerce, Chambre de Commerce, Paris, *Bulletin*, 1925, p. 445.

[39] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2697 (June 14).

[40] Although it must be noted that coöperatives which do not buy and resell, and at the same time are not subject to the business-profits tax, escape the turnover tax entirely.

[41] *Cf. infra*, p. 254. The court decision rendered unnecessary the passage of a law such as that sponsored by François-Marsal in December, 1920, designed to render coöperatives taxable without doubt. *Cf. D.P.*, 1920, *Ch.*, *S.E.*, pp. 400–404 (No. 1760).

[42] *Cf. infra*, p. 255.

[43] *D.P.*, 1922, *Sénat*, *S.E.*, p. 93 (No. 668).

[44] *D.P.*, 1924, *Ch.*, *S.O.*, p. 1410 (No. 441).

The Senate, backed by the Government, refused to pass this measure, pleading that a separate study of the matter should be made after the budget bill was passed. After several rejections by the Senate,[46] the Chamber was forced to give in, resting content for the time being with a provision that the coöperatives should remain under the old doctrine (non-taxability as long as they were not subject to the income tax) until January 1, 1926.

In the end the Senate had its way, the Chamber Committee agreeing, in 1926, that coöperatives which were in fact buying and reselling should be subject to the turnover tax just as are the ordinary wholesaler and retailer, even though, because of the use they make of their profits, they escape the income tax.[47] This doctrine became law.[48]

The arguments *pro* and *con* hardly met on common ground. Those in favor of exempting the coöperatives based their appeal on the cost of living, and their opponents were not inclined to dispute this point, although one commentator thought the exemption would not be passed on in lower prices to the coöperative members but would be merely a gift to the directors of the organizations.[49] "Price fixing, price lists, market investigations, business ventures by départements and communes have been powerless," declared Senator Merlin, referring to efforts to check the rise in living costs. "But that which has certainly given results in war and in peace has been the existence of those coöperative societies worthy of the name."[50]

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[45] Proposals have been made to exempt entirely from the turnover tax — even as to commissions or profits — certain small coöperatives which have no administrative expenses or personnel as distinct organizations. *Déb.*, 1927, *Ch.*, *S.O.*, p. 483 (Feb. 22).

[46] For typical debate on the subject, *cf. Déb.*, 1925, *Sénat*, *S.O.*, pp. 1445–1448 (July 9).

[47] *D.P.*, 1926, *Ch.*, *S.O.*, p. 418 (No. 2743).

[48] *Cf. infra*, p. 255. Coöperative pharmacies (*pharmacies mutualistes*), though legally subject to the tax, are granted immunity by the Administration. *J.C.I.*, July 8, 1928, p. 363.

[49] *J.C.I.*, Jan. 8, 1926, p. 21.

The opponents of exemption pointedly remarked that one of the necessary and accepted evils of the turnover tax was the increase in the cost of living of the masses which it caused. But in the name of "equality in taxation" no special favors should be shown, and the size of some of the coöperatives would make such discrimination patently unjust. "When one sees such a coöperative as the one of Charentes handling milk, which will show a turnover of 350 million francs this year," said Senator Manceau, ". . . one can say that such as these are no longer coöperatives, but camouflaged corporations, disguised to escape payment of the [income and turnover] taxes."[51]

A special type of consumers' coöperative, the *syndicat agricole*, which buys farm materials for its members, has been shown favor, being taxable only if it comes under the business-profits tax, as long as it deals solely in materials used on the farm.[52] Most of these *syndicats* would probably be exempt anyway, as they buy for their members only on special orders, acting as commission merchants, though it is often difficult for them to prove this, because of lack of records.[53]

In addition to the consumers' coöperatives, the coöperative buying associations formed by independent retailers and wholesalers, and the agricultural producers' coöperatives have furnished turnover-tax problems.

The former, known as *groupements d'achats en commun*, have been formed in order that independent merchants might buy in large quantities and lower their costs; this has been especially necessary to compete with the large vertically integrated concerns whose commodities escape much of the turnover tax, though *groupements* existed before 1920. Sales by the coöperative to its members are taxable, if it takes title to the goods, and proposals have been made to change this situation, so that the organizations may be taxed only on their gross profits, or commissions, as intermediaries. In 1920 the Chamber, not so concerned about coöperatives

[50] *Déb.*, 1927, *Sénat*, *S.O.*, p. 285 (March 18).

[51] *Ibid.*, p. 286.

[52] *Cf. infra*, p. 255.

[53] *Cf. D.P.*, 1926, *Ch.*, *S.O.*, p. 418 (No. 2743).

at that time, defeated such a proposal,[54] but by 1925 it had become convinced that some such favor should be shown the *groupements*.[55] As yet, however, it has been unable to convince the Senate.[56]

Agricultural producers' coöperatives present a different problem. The point at issue here is, whether sales by a coöperative should be regarded as in reality sales of farm products by its farmer members, and hence exempt; or whether they should be considered sales by an industrial organization and hence taxable. No tax has been levied unless the coöperative in question has used so much machinery and has run its work along industrial lines to such an extent, that the Tax Administration has felt justified in removing it from the agricultural-profits schedule of the income tax to the commercial- and industrial-profits schedule. This has made such coöperatives automatically subject to the turnover tax, on their gross sales. This criterion — existence of elaborate machinery, as in some of the larger butter-producing coöperatives — was attacked in the Chamber, Deputy Lesaché declaring that the test should be instead the character of the work followed by the members of the producing coöperatives. Both the Chamber Finance Committee and the Government rejected this proposal.[57] The situation has recently been made a little clearer by the passage of a law [58] which declares that such coöperatives, if they limit themselves to receiving, transforming, and selling the products raised by their members, are excused from the turnover tax (as well as the business-profits tax) on their sales in so far as their operations, typically agricultural, would be exempt if they were practised individually by members of the coöperatives. This leaves something to be desired in definiteness,[59] and the existence of elaborate machinery will doubtless still play an important part in the Administration's decisions on specific cases.

Small Taxpayers in General. — The exemptions granted and proposed as noted above have been based on the type of activity carried on by the persons in question, such activity being considered

[54] By 443 to 135. *Déb.*, 1920, *Ch.*, *S.O.*, pp. 1268–1276 (April 23).

[55] *Déb.*, 1925, *Ch.*, *S.O.*, pp. 3462, 3463 (July 12).

[56] *Déb.*, 1927, *Sénat*, *S.O.*, p. 286 (March 18).

[57] *Déb.*, 1925, *Ch.*, *S.O.*, pp. 3406–3409 (July 11).

[58] Law of Dec. 30, 1928, art. 32.

[59] *Cf. J.C.I.*, April 15, 1929, p. 196.

for various reasons as being outside the scope of a tax collectible from business, or as of such a nature that the people involved would not be able to shift the tax, or as conducted under a form of business which the Government might wish to foster. There remain other types of exemption by classes of persons, exemptions which are not based on the above points, but which rest either upon administrative advantages or upon a plain desire to abolish part of the turnover tax. Such are: (*a*) exemption of all those whose turnover falls below a certain amount, (*b*) exemption of retailers.

Curiously enough, no minimum limits for taxpayers under the turnover tax have been set in France. Let the small shopkeeper's annual gross receipts be ever so low, that fact alone does not excuse him from the tax. Adoption of such a measure would probably result in a considerable increase in the total tax yield as tax agents would be freed to pursue bigger and more profitable game, unless indeed they pay no attention to such small taxpayers even with the existing law — a supposition that is not likely when one recalls the sea of complaints from small taxpayers over fiscal "inquisition" that has swamped Parliament from time to time. Such a measure might be opposed because of the difficulty of finding out whether or not the party in question was entitled to the exemption, but the same problem has been met in the use of the *forfait*, or estimated-tax-base system, which, while bringing in revenue, still necessitates some work by the tax collector and *contrôleur*. Figures for 1922 (Table 3, p. 74) showed that forty-eight per cent of those who paid the tax that year could have been exempted with a loss of only little over two per cent in revenue. The same proportions might not be true today, with efficient collection, but the figures give some hint of the mass of petty detail in which the Administration is involved, even under the present *forfait* system, for the sake of relatively small revenue.

The argument of "universality" in taxation applies here, though in a way different from that in an income tax. In the latter, "universality" may have a false basis in so far as it would lead to taxing a small laborer or merchant who has nothing to spare above the personal "current expenses" of bare living requirements plus a "depreciation reserve" — to borrow business terms — built up to insure future health, etc. In the turnover tax there is no such false basis, if we assume the small merchant can pass on most of the tax to his customers, but this fact alone does not prove a need for universality under the turnover tax. The important question is whether or not the exemption of the small merchant would make the tax non-shiftable as regards those remaining under it. It seems very doubtful that the exemption of those with an annual turnover in 1922 of only 10,920 francs (about $887)[60] or less would have cut into the business of those with a far greater turnover. Those close to the border line of exemption would doubtless find themselves at a disadvantage in competing with their slightly smaller fellow business men, but the transition might be effected gradually through a sliding scale of rates.

If it be assumed that most or all of the tax is borne by the small merchant, not shifted, the "universality" plea still loses much of its meaning (especially if the larger merchants are able to shift it), for the tax was not intended to be levied with finality on the business man, it has little relation to the individual's capacity to pay or to the service rendered by the State, and even if one assumes that all business men bear most of the tax, the small merchant might well be granted exemption without upsetting the scales of justice since as a small consumer that part of the tax which was shifted would rest more heavily on him than on the large merchant consumer. In sum, our exact knowledge of the final burden of the tax is so hazy, and the tax itself was ostensibly levied upon such a purely utilitarian basis — to get the money for the Treasury wherever it can be found — that no serious ethical charge against exempting small dealers from the turnover tax can be sustained.

Such an exemption was proposed in the Chamber Finance Committee in 1924. The limit, however, was set very high, at 200,000 francs, and the motive behind it was not to increase the total yield of the tax by administrative simplification, but to reward the thousands of voters who had listened with eager anticipation to the *Cartel's* campaign promises to abolish the turnover tax.[61]

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[60] Using Jan., 1922, rate as given in J. H. Rogers, *The Process of Inflation in France* (New York, Columbia University Press, 1929), p. 59.

[61] *Cf. supra*, p. 32.

The suggestion was dropped, because it was thought not a practicable enough start[62] for the battering down of the turnover tax (protests from the Government probably had much to do with this), and a substitute proposal was adopted.

Retail Sales. — Judged from almost any angle this substitute proposal, exempting retailers with a certain minimum of personnel, seems inferior, but it was adopted by the Chamber with enthusiasm, and provoked political turmoil.[63] It exempted all those who sold at retail, and who employed ten (later on in the discussion reduced to three) employees or less; the exemption would not apply to sales of luxury articles.

The motive behind this proposal, as behind the previous one that had been abandoned, was to lighten the tax burden. In view of the general belief that the tax was shifted, it would have been more logical for the Committee to have based the exemption solely on the kind of product sold, as proposed by Finance Minister Clémentel,[64] so that the poorer classes who spend most of their incomes on certain types of articles could have been relieved. But the Committee's report betrayed a feeling that after all the turnover tax tended to "stick" where it was first levied; the Committee did not like the prospect of a large grocery store going free of tax while a small clothing merchant, for example, remained taxable. The larger the retail firm the more apt it was to buy direct from producers, thus avoiding part of the cumulative burden of the tax. The Committee claimed furthermore that this move would be a step toward the "replacement" taxes so eagerly sought after by the Chamber.[65] Still another argument advanced was that the exemption would put the small shopkeeper on the same footing as the artisan, who had already been granted exemption — hardly a strong argument when it is recalled that the artisan is exempt because most of his gross receipts represents manual labor.

The exemption of retailers with three employees or less would cost the Treasury 845 millions a year, the Committee calculated, and would free from the tax nearly a million merchants.[66] From

[62] *D.P.*, 1924, *Ch.*, *S.O.*, p. 2066 (No. 537).

[63] *Cf. supra*, p. 35.

[64] *Cf. supra*, p. 33.

[65] *Cf. infra*, pp. 121–123.

[66] *Cf. J.C.I.*, Jan. 1, 1925; also Table 10 (p. 114).

this it would seem that one of the reasons for shifting the criterion of exemption from amount of turnover (200,000 francs) to number of employees, was to obtain a wider exemption without perhaps attracting as much attention to the extent of the privilege. Figures in Table 7 (p. 109) showing that collections from all retailers with not more than 300,000 francs turnover amounted to 635 millions in 1924, indicate the Treasury would have lost more by the substitute criterion of three employees or less. But it must be admitted the 845 millions estimate was liberal; figures for taxable turnover in 1924 (Table 10, p. 114) indicate that even if all retailers employing five employees or less were exempt, the loss would not run much above 710 millions at the 1.2 per cent rate.

Part of the 845 millions loss was to be made up by a series of replacement taxes upon production or importation, levied on certain articles which contribute heavily to the very retail trade which would be exempt under the above proposals. Of course these replacement taxes carried with them exemption from the turnover tax at all stages, wholesale or retail, but because of their higher rates and presumably better collection, the Committee thought they would help fill the gap left by the general retail exemption provisions.[67]

Despite the array of arguments brought forth to support this proposal, it appears that the one all-important reason for its popularity with the Chamber at first was that it clearly opened a breach, no matter where, in the turnover tax that might lead to the latter's eventual abolition.

Viewed from any narrower angle, the proposal to exempt retailers with three or less employees was open to effective attack. Was it to relieve the small merchants of a tax expense? Then the Chamber was contradicting itself, for it believed the tax to be passed on to the consumer.

Was it to relieve the small merchant of bothersome regulations, and trouble with the tax collector? The exemption would give little relief beyond that granted by the *forfait*, or estimated-tax-base, system; the merchant would still be open to inspection if he

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[67] For the calculations in detail and the conflicting estimates of the Administration, *cf. D.P.*, 1924, *Ch.*, *S.E.*, p. 2067 (No. 537).

TABLE 7

DISTRIBUTION OF TAXPAYERS SUBJECT TO THE DOMESTIC TURNOVER TAX IN 1924 (HAVING ANNUAL TURNOVER OF LESS THAN 500,000 FRANCS) BY SIZE OF BUSINESS [a]

	Number of Taxpayers			Tax Collected in 1924, in francs [b]			Average Amount Paid per Taxpayer, in francs		
	Indirect-Tax Administration	Registration Administration	Total	Indirect-Tax Administration	Registration Administration	Total	Indirect-Tax Administration	Registration Administration	Total
Wholesalers: turnover not more than 300,000, frs.	19,256	13,028	32,284	27,729,596	25,405,132	53,134,728	1,440	1,950	1,646
Wholesalers: turnover between 300,000 and 500,000 frs.	8,290	8,897	17,187	29,910,084	39,020,850	68,930,934	3,608	4,386	4,011
Total, wholesalers: turnover not more than 500,000 frs.	27,546	21,925	49,471	57,639,680	64,425,982	122,065,662	2,092	2,938	2,467
Semi-wholesalers: turnover not more than 300,000 frs.	15,927	16,110	32,037	19,267,084	25,304,178	44,571,262	1,210	1,571	1,391
Semi-wholesalers: turnover between 300,000 and 500,000 frs.	2,972	4,883	7,855	15,016,472	21,062,250	36,078,722	5,053	4,313	4,593
Total, semi-wholesalers: turnover not more than 500,000 frs.	18,899	20,993	39,892	34,283,556	46,366,428	80,649,984	1,814	2,209	2,022
Retailers: turnover not more than 300,000 frs.	1,144,745	339,634	1,484,379	399,093,638	235,812,702	634,906,340	349	694	428
Retailers: turnover between 300,000 and 500,000 frs.	17,836	48,440	66,276	54,394,571	235,929,232	290,323,803	3,050	4,871	4,381
Total, retailers: turnover not more than 500,000 frs.	1,162,581	388,074	1,550,655	453,488,209	471,741,934	925,230,143	390	1,216	597
All taxpayers: turnover not more than 300,000 frs.	1,179,928	368,772	1,548,700	446,090,318	286,522,012	732,612,330	378	777	473
All taxpayers: turnover between 300,000 and 500,000 frs.	29,092	62,220	91,312	99,321,127	296,012,332	395,333,459	3,414	4,758	4,329
Total, all taxpayers: turnover not more than 500,000 frs.	1,209,020	430,992	1,640,012	545,411,445	582,534,344	1,127,945,789	451	1,352	688

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[a] Adapted from table in *D.P.*, 1924, *Ch.*, *S.O.*, p. 2065 (No. 537), which is also reproduced in Allix and Lecerclé, *op. cit.*, p. 320. Besides the data given above, the table shows that the Customs Administration collected 572,000 frs. from those having an annual turnover of less than 300,001 frs., and 889,000 frs. from those with less than 500,001 frs. turnover. These are almost entirely commission merchants, taxable on their gross commissions only.

[b] These figures are for collections at the 1, 3, and 10 per cent rates for nearly three months; for the rest of the year, 1.2, 3.6, and 12 per cent.

TABLE 8[a]

TOTAL DOMESTIC TURNOVER-TAX COLLECTIONS IN 1923, SUBDIVIDED BY "RETAIL," "SEMI-WHOLESALE," AND "OTHERS"

(In francs)

	Registration Administration		Indirect-Tax Administration		Both Administrations	
	Tax Collected	Per Cent of Total Tax Collected by Registration Administration	Tax Collected[b]	Per Cent of Total Tax Collected by Indirect-Tax Administration	Tax Collected	Per Cent of Total
Retail sales...	667,370,303	39.16	604,332,321	52.87	1,271,702,624	44.67
Semi-wholesale sales.......	203,834,353	11.96	92,097,726	8.06	295,932,079	10.39
All others[c]...	833,016,838	48.88	446,527,165	39.07	1,279,544,003	44.94
Totals......	1,704,221,494	100.00	1,142,957,212	100.00	2,847,178,706	100.00

[a] From data supplied by Ministry of Finance.

[b] These figures are for collections at the 1, 3, and 10 per cent rates.

[c] This column was headed "gros" in the table given to the writer, but it obviously includes sales by manufacturers, as the totals for the year are even somewhat greater than the totals shown in Table 20. The writer is unable to explain this latter discrepancy.

sold luxury articles[68] — and even if he did not, so that the tax agents might be sure he did not.

Was it to lessen the burden on consumers patronizing the small retailer? That seemed the most likely argument, but Caillaux for example was not convinced by it. He thought the exemption would be so small, compared with the total burden of the tax, that the merchants would not pass it on to the consumers.[69] Deputy Cayrel, it is true, said that representatives of the merchants had promised the Finance Committee they would pass the relief along to the consumer, but even he admitted that skepticism was possible on this point.[70]

"The grocer with ten employees [the criterion set in the original proposal] would certainly think himself a fool if he sold his goods 1.30 per cent below the prices set by his competitor having eleven men," said the *Journal des Contributions Indirectes*.[71] If this view

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[68] *Cf. J.C.I.*, Jan. 1, 1925, for examples.

[69] *Déb.*, 1925, *Ch.*, *S.O.*, p. 3158 (July 2).

[70] *Ibid.*, p. 3161.

[71] March 1, 1925, pp. 118, 119. *Cf.* also *Déb.*, 1925, *Ch.*, *S.O.*, p. 1473 (Feb. 28), Deputy Thoumyre.

TABLE 9

TURNOVER TAX COLLECTED BY INDIRECT-TAX ADMINISTRATION ONLY, 1922–1923, WITH TAXPAYERS SUBDIVIDED BY SIZE OF TURNOVER[a]

(Monetary items in francs)

YEAR: 1922

TURNOVER	NUMBER OF TAXPAYERS	PER CENT	TAX PAID[b]	PER CENT
Less than 5,460 frs.	471,468	37.57	15,253,681	1.80
From 5,460 to 10,920 frs.	217,713	17.40	20,125,860	2.40
From 10,920 to 54,600 frs.	369,688	29.50	117,518,049	13.50
From 54,600 to 109,200 frs.	99,713	7.90	86,059,894	9.90
From 109,200 to 1,092,000 frs.	87,680	6.90	291,589,804	33.50
From 1,092,000 to 10,920,000 frs.	9,067	0.70	244,289,859[c]	28.10
More than 10,920,000 frs.	407	0.03	94,213,034	10.80
All taxpayers	1,255,736	100.00	869,050,181	100.00

YEAR: 1923

TURNOVER	NUMBER OF TAXPAYERS	PER CENT	TAX PAID	PER CENT
Less than 5,460 frs.	368,238	30.40	16,267,000	1.40
From 5,460 to 10,920 frs.	216,267	17.80	20,198,000	1.70
From 10,920 to 54,600 frs.	387,030	32	119,446,000	10.10
From 54,600 to 109,200 frs.	114,753	9.40	99,706,000	8.50
From 109,200 to 145,500 frs.	32,404	2.80	46,416,000	3.90
From 145,500 to 181,800 frs.	22,826	1.90	56,454,000	4.80
From 181,800 to 363,500 frs.	31,939	2.70	96,824,000	8.20
From 363,500 to 1,092,000 frs.	24,622	2.07	172,367,000	14.60
From 1,092,000 to 13,650,000 frs.	10,624	0.90	351,071,000	30
More than 13,650,000 frs.	419	0.03	198,052,000	16.80
All taxpayers	1,209,122	100.00	1,176,801,000[d]	100.00

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[a] *D.P.*, 1924, *Sénat*, *S.O.*, p. 255 (No. 274).

[b] These figures are for collections at the 1, 3, and 10 per cent rates.

[c] In the *D.P.*, this figure is given as 344,289,859, obviously a misprint.

[d] In the *D.P.*, this figure is given as 1,174,801,000, but the items add to the total printed above.

were correct, then of course the Chamber Committee's reform was highly "anti-democratic,"[72] for the consumers would not be benefited at all, and the loss in revenue would be made up by more taxation on necessities of life such as cereals, meat, coal, sugar, rice, etc.

Furthermore, there were certain positive arguments against such an exemption. "Three employees" meant only those outside the retailer's own family; would it not be unfair to tax one retailer and let another one go free merely because the first had no sons or daughters to help him in the shop? And what justice was there in distinguishing so sharply between the dealer with three employees and one with four — were they not in the same position, essentially?

More, the test itself had little relation to the size of the business — contrast the automobile dealer with four or five employees who may have a greater turnover than a grocer with eleven employees.[73]

Caillaux also warned the Chamber that the proposed exemption would cause those on the border line to discharge one or two employees in order to receive the exemption.[74] In addition there was good ground for the fear that total exemption of all retailers would seriously interfere with controlling statements made to the Direct-Tax Administration for the purpose of assessing the business-profits tax; at that time this tax was, for most concerned, reckoned rather arbitrarily by applying profit coefficients to the figure of gross receipts.[75] This, of course, would have applied to any proposal to exempt small taxpayers, but at present it would not be a valid objection, as the gross receipts base for the profits tax has been abandoned.

The force of these objections was felt, despite invective against the turnover tax in general, and when the measure passed the Chamber a second time (at six o'clock on the morning of July 3), it was by a vote of 292 to 257[76] in place of the unanimous vote[77] secured on its first passage. Two currents were flowing against the exemption:[78] the one representing the opinion that any such measure was unwise; the other, that the exemption did not go far enough, had better be set aside until it could be made more inclusive, and should in no case be coupled with a series of replacement taxes[79] levied on the very necessities which were the object of so much solicitude.

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[72] *J.C.I.*, March 1, 1925, p. 118.

[73] *Loc. cit.*

[74] *Déb.*, 1925, *Ch.*, *S.O.*, p. 3158 (July 2).

[75] *Cf. J.C.I.*, March 1, 1925, p. 118.

[76] A motion to disjoin was defeated by these numbers. The motion to adopt was then voted *viva voce*. *Ibid.*, pp. 3162, 3163.

[77] But only after various amendments, etc., had been defeated by less than unanimity.

The Senate Finance Committee rejected the exemption. The effect on revenues was totally unknown, it declared, despite what hopeful calculators might do with estimates. And it was skeptical of the exemption's possible effect on the cost of living; prices are determined by the highest-cost seller, and he might not be among those exempt, under the Chamber's plan.[80] The Committee's attitude, however, cannot be taken as serious opposition to the principle of exemption in a general turnover tax; rather, it exemplified a dogged determination to get all the tax revenue possible for the Treasury in that critical time. Any proposal for exemption of any kind was bound to meet with strong opposition from the more sober and responsible elements who saw how far short of the Treasury's pressing needs the revenue was falling.

Opposition to the measure also came from certain business circles, although opinion here was divided.[81]

Exemption of retailers was again considered, in an indirect way, when Doumer in 1926 made an appeal to Parliament for a "payments tax," to be levied only on sales between *commerçants*, *i.e.*, between those subject to the business-profits tax. This was in reality but a disguised increase in the turnover-tax rate for all non-retail sales, but Doumer — though at first advocating his "payments tax" as a temporary measure — later expressed the hope that eventually it would absorb the turnover tax, that is, that all retail sales might some day be entirely exempt.

[78] *Cf. Déb.*, 1925, *Ch.*, *S.O.*, p. 3157 *et seq.* (July 2), p. 3398 *et seq.* (July 11).

[79] *Cf. supra*, p. 121 *et seq.*

[80] *D.P.*, 1925, *Sénat*, *S.O.*, p. 993 (No. 402).

[81] *Cf. J.C.I.*, Jan. 15, 1925, p. 31, quoting the Comité Extra-Parlementaire de Défense du Commerce de Détail, the Chambre de Commerce de Limoges, and the Comité Central de la Fédération Nationale des Coöperatives de Consommation against the exemption, and the Fédération Industrielle et Commerciale de Saint-Calais in favor of it; *ibid.*, Oct. 8, 1925, pp. 506, 507, quoting the Congrès Commercial de Nancy against the exemption; *Déb.*, 1925, *Ch.*, *S.O.*, p. 1472 (Feb. 28), Deputy Rollin citing Le Groupe de Défense du Commerce against it.

TABLE

RETAIL SALES IN 1924 SUBJECT TO TURNOVER TAX, WITH NUMBER OF

(Monetary items

Groups of Taxpayers	Total Retail Sales				
	Number of Taxpayers (Retailers)		Taxable Turnover		Average Taxable Turnover
	Number	Per Cent of: All Retailers	Amount	Per Cent of: Turnover, All Retailers	
Commercial and manufacturing single-shop retailers, total	**1,043,650**	**69.75**	**93,007,737,333**	**80.59**	**89,118**
Employing five or less workers or employees	986,307	65.92	49,524,177,992	42.91	50,212
Employing more than five and not more than ten	35,314	2.36	17,066,350,756	14.79	483,274
Employing more than ten	22,029	1.47	26,417,208,585	22.89	1,199,201
Multiple-branch concerns, total	**19,033**	**1.27**	**8,515,152,127**	**7.38**	**447,389**
Hotels, boarding houses, sanitariums, total	**26,578**	**1.78**	**2,733,995,759**	**2.37**	**102,867**
Receipts from lodging	26,578	1.78	957,968,806	0.83	36,044
Employing five or less employees	23,109	1.54	345,362,000	0.30	14,945
Employing more than five and not more than ten	2,234	0.15	198,344,340	0.17	88,784
Employing more than ten	1,235	0.08	414,262,466	0.36	335,435
Receipts from board	26,578	1.78	1,776,026,953	1.54	66,823
Employing five or less employees	23,109	1.54	838,483,637	0.73	36,284
Employing more than five and not more than ten	2,234	0.15	317,971,396	0.28	142,333
Employing more than ten	1,235	0.08	619,571,920	0.54	501,678
Restaurants, bars, cafés, and tea rooms, total	**348,488**	**23.29**	**10,877,392,121**	**9.42**	**31,213**
Employing five or less employees	345,702	23.10	9,542,265,180	8.27	27,603
Employing more than five and not more than ten	1,888	0.13	522,277,513	0.45	276,630
Employing more than ten	898	0.06	812,849,428	0.70	905,178
Houses, villas, or furnished apartments, rented	**58,525**	**3.91**	**275,365,097**	**0.24**	**4,705**
Total, all retailers	**1,496,274**	**100.00**	**115,409,642,437**	**100.00**	**77,131**

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[a] Adapted from tables in *D.P.*, 1924, *Ch.*, *S.O.*, pp. 2066, 2067 (No. 537), which tables are also reproduced in Allix and Lecerclé, *op. cit.*, pp. 322–324.

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TAXPAYERS, GROUPED ACCORDING TO NUMBER OF EMPLOYEES HIRED [a]

in francs)

Non-Luxury Sales					
Number of Taxpayers (Retailers) Subject to Non-Luxury Rates			Turnover Taxable at Non-Luxury Rates		
Number	Per Cent of: All Retailers Subject to Non-Luxury Rates	Per Cent of: All Retailers	Amount	Per Cent of: Total Retail Turnover Subject to Non-Luxury Rates	Average Taxable Turnover
[b]			**91,862,072,383**	**82.18**	
[b]			48,945,058,895	43.79	
[b]			16,869,839,850	15.09	
[b]			26,047,173,638	23.30	
[b]			**8,299,335,041**	**7.42**	
23,227		**1.55**	**1,338,957,760**	**1.20**	**57,647**
23,227		1.55	391,367,457	0.35	16,850
21,940		1.47	281,267,322	0.25	12,820
1,057		0.07	67,621,402	0.06	63,975
230		0.02	42,478,733	0.04	184,690
23,227		1.55	947,590,303	0.85	40,797
21,940		1.47	743,225,276	0.66	33,875
1,057		0.07	123,848,850	0.11	117,170
230		0.02	80,516,177	0.07	350,070
345,787		**23.11**	**10,095,729,362**	**9.03**	**29,196**
344,334		23.01	9,430,350,962	8.44	27,387
1,078		0.07	325,803,765	0.29	302,230
375		0.03	339,574,635	0.30	905,532
47,514		**3.18**	**180,421,459**	**0.16**	**3,797**
?		?	**111,776,516,005**	**100.00**	

[b] Not given, but probably the same as in first column.

TABLE 10—

LUXURY SALES [d]

GROUPS OF TAXPAYERS	NUMBER OF TAXPAYERS (RETAILERS) SUBJECT TO LUXURY (10 AND 12 PER CENT) RATES			TURNOVER TAXABLE AT LUXURY (10 AND 12 PER CENT) RATES		
	NUMBER	PER CENT OF: ALL RETAILERS SUBJECT TO LUXURY RATES	PER CENT OF: ALL RETAILERS	AMOUNT	PER CENT OF: TOTAL RETAIL TURNOVER SUBJECT TO LUXURY RATES	AVERAGE TAXABLE TURNOVER
Commercial and manufacturing single-shop retailers, total	**92,118**	?	**6.16**	**1,145,664,950**	**58.61**	**12,437**
Employing five or less workers or employees	77,581		5.18	579,119,097	29.63	7,465
Employing more than five and not more than ten	8,833		0.59	196,510,906	10.05	22,247
Employing more than ten	5,704		0.38	370,034,947	18.93	64,873
Multiple-branch concerns, total	[c]	?		**215,817,086**	**11.04**	
Hotels, boarding houses, sanitariums, total	**273**	?	**0.02**	**422,901,809**	**21.63**	**1,549,091**
Receipts from lodging	273		0.02	192,873,137	9.87	706,495
Employing five or less employees	22		[c]	758,507	0.04	34,478
Employing more than five and not more than ten	77		[c]	16,884,760	0.86	219,283
Employing more than ten	174		0.01	175,229,870	8.96	1,007,068
Receipts from board	273		0.02	230,028,672	11.77	842,596
Employing five or less employees	22		[c]	813,497	0.04	36,977
Employing more than five and not more than ten	77		[c]	18,430,352	0.94	239,355
Employing more than ten	174		0.01	210,784,823	10.78	1,211,407
Restaurants, bars, cafés, and tea rooms, total	**342**	?	**0.02**	**148,977,291**	**7.62**	**435,606**
Employing five or less employees	103		0.01	6,249,227	0.32	60,672
Employing more than five and not more than ten	104		0.01	17,751,798	0.91	170,690
Employing more than ten	135		0.01	124,976,266	6.39	925,750
Houses, villas, or furnished apartments, rented	**1,758**	?	**0.12**	**21,463,278**	**1.10**	**12,209**
Total, all retailers	?	?		**1,954,824,414**	**100.00**	?

[c] Not given.

[d] Serious doubt may be cast on the completeness or accuracy of the figures for luxury sales. Including the 1,497,273,206 frs. reported for manufacturers of autos, the total taxable turnover of dealers in luxury articles comes to 2,858,755,242. At 10 per cent, this gives a tax yield of 285,875,524 which should be increased by 15 per cent because of the 20 per cent increase in rate which applied during three-fourths of 1924, giving a total of 328,756,853. The total turnover for hotels, cafés, villas, etc., at the luxury rate is given as 593,342,378. Applying the same method of calculation as above, a yield of 68,234,373 is to be expected. The sum of these is 396,991,227; yet Table 20 shows the amount actually collected as 574,052,853. This indicates that the sum of the turnovers given above is over one billion francs too small.

(*Continued*)

Semi-Luxury Sales					
Number of Taxpayers (Hotels, etc.) Subject to Semi-Luxury (3 and 3.6 Per Cent) Rates			Turnover Taxable at Semi-Luxury (3 and 3.6 Per Cent) Rates		
Number	Per Cent of: All Hotels, etc., Subject to Semi-Luxury Rates	Per Cent of: All Retailers	Amount	Per Cent of: Total Hotel, etc., Turnover Taxable at Semi-Luxury Rates	Average Taxable Turnover
3,078	**20.95**	**0.21**	**972,136,190**	**57.92**	**315,834**
3,078	20.95	0.21	373,728,212	22.27	121,419
1,147	7.81	0.08	63,336,171	3.77	55,219
1,100	7.49	0.07	113,838,178	6.78	103,489
831	5.66	0.06	196,553,863	11.71	236,527
3,078	20.95	0.21	598,407,978	35.66	194,415
1,147	7.81	0.08	94,444,864	5.63	82,341
1,100	7.49	0.07	175,692,194	10.47	159,720
831	5.66	0.06	328,270,920	19.56	395,031
2,359	**16.06**	**0.16**	**632,685,468**	**37.70**	**268,201**
1,265	8.61	0.08	105,664,991	6.30	83,530
706	4.81	0.05	178,721,950	10.65	253,147
388	2.64	0.03	348,298,527	20.75	897,677
9,253	**62.99**	**0.62**	**73,480,360**	**4.38**	**7,941**
14,690	**100.00**	**0.98**	**1,678,302,018**	**100.00**	**114,248**

This method of checking works out well with second-class establishments. The total taxable turnover as given above equals 1,678,302,018. At 3 per cent, increased 15 per cent (as above), the yield should be 57,901,420 whereas the actual yield shown in Table 20 (note *w*) is fairly close to this: 57,095,850.

The writer is inclined to think that the calculated yield of 68,234,374 for the 10 and 12 per cent tax on first-class establishments is approximately correct, and has acted on this supposition in calculating the average rate increases for the purposes of Table 1.

[e] Less than 0.005 per cent.

The advantages of this possible development were portrayed as being primarily administrative, and if luxury sales should also be exempted at the retail stage — contrary to the plan advanced in 1925 — there seems some basis for such expectations.[82]

Although Doumer's plan failed, his successor, Péret, had the turnover tax increased to 2 per cent with the exception of all retail sales, which were left at 1.30 per cent. The distinction proved troublesome in administration; Poincaré had the rates unified at 2 per cent, and since that time there has been no serious attempt to discriminate in favor of retailers.

Foodstuffs. — The conception of the turnover tax as one that is supposedly shifted entirely to the consumer, is strikingly illustrated in the type of exemptions proposed by Finance Minister Clémentel in the latter part of 1924.[83] Instead of exempting certain classes of small taxpayers, he would lift the tax from all sales of certain classes of articles, in this case foodstuffs. Whether the taxpayer were rich or poor, he supposedly passed the tax on to the consumer; the important thing, then, was that the poor consumer, not the poor taxpayer, be relieved. This could be done by exempting some of those necessities of life which make up such a large percentage of the poor consumer's budget — milk, eggs, meat, and the grain and flour that finally result in bread. The exemption would apply at every stage: sale by producer, wholesaler, or retailer.

The exemption of grain and flour, thought Clémentel, would have an immediate effect on the price of these commodities, because of the scrutiny exercised by the départements' *préfets*. The exemption of meat should apply only to fresh meat, or meat frozen or salted or smoked; not to cooked meats, such as sausages, and other delicatessen products. It should, however, include the sale of live animals destined to be slaughtered. Milk and eggs, being essential for old people and children, were especially logical points for exemption. The loss in yield from these measures was estimated at 95 millions for grain and flour, 160 millions for animals and meat, and 40 millions for milk and eggs.[84]

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[82] *Cf. J.C.I.*, Feb. 8, 1926.

[83] *Cf. D.P.*, 1924, *Ch.*, *S.O.*, pp. 1395, 1410 (No. 441).

[84] *Ibid.*, p. 1410.

The Chamber decided to make the exemption a sweeping one, and passed an amendment submitted by the Socialists,[85] freeing from the tax all retail sales of foodstuffs of any kind. This, coupled with the proposal to exempt sales by retailers with less than four employees,[86] went back and forth between the Senate and the Chamber, the former steadily opposing it, the latter supporting it, but by dwindling majorities. Finally, upon Caillaux's insistence, it was dropped; but not before its proponents had had every chance to advance its merits.

Under the existing circumstances, declared the Chairman of the Finance Committee, Auriol, the tax on foodstuffs was levied on the consumer, but not paid to the Treasury, due to lack of bookkeeping and other means of evasion on the part of the small retailers in foodstuffs.[87] How the removal of a tax that was not paid anyway would help the consumer, is not clear; but Deputies Cayrel and Levasseur claimed that representatives of grocery stores, large and small, had promised to lower the prices of their articles by the full amount of the tax exemption granted them. Cayrel also thought the tax removal would be more noticeable to the consumer as to foodstuffs than as to other lines where the retail mark-up is higher.[88]

In part, at least, business circles seem to have been opposed to the proposed exemptions.[89] It was felt that since they applied only to certain products, they would not be worth the added bookkeeping and control complications necessitated by distinguishing exempt sales in a grocery store, for instance, from non-exempt sales.

The only result of the debates was the passage of an article exempting sales of milk, somewhat analogous to the earlier measure exempting bread.[90] Later on the "replacement-tax" idea was to be advanced for all foodstuffs,[91] but straight exemption with no compensating taxes on the same articles has not been seriously considered since 1925.

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[85] *Cf. Déb.*, 1925, *Ch.*, *S.O.*, p. 1463 *et seq.* (Feb. 28).

[86] *Cf. supra*, p. 107.

[87] *Déb.*, 1925, *Ch.*, *S.O.*, p. 3159 (July 2), p. 3401 (July 11).

[88] *Ibid.*, p. 1469 (Feb. 28).

[89] *Cf. Voeu du Congrès Commercial de Nancy*, in *J.C.I.*, Oct. 8, 1925, pp. 506, 507.

[90] For a strong denunciation of the exemption of sales of bread, on the grounds that it costs the State 100 millions a year and benefits the consumer but slightly, *cf. Juris-Classeur Fiscal*, Div. J, No. 15.

[91] *Cf. infra*, p. 139.

Other Exemptions. — The other exemptions existing in the turnover-tax law call for little discussion. They are listed elsewhere.[92] On the whole, Parliament has shown great self-control in refusing to cripple the turnover tax, both from administrative and revenue points of view, through numerous exemptions.

Most of those existing today were incorporated in the 1920 law, and concern commodities and services over the price of which the State has control, or which are subject to specially devised taxes more suitable for these particular cases than the turnover tax would be.

In the first case the argument used was that the seller could not raise his price to recoup the tax from consumers as Parliament intended; obviously, however, the State could have allowed a 2 per cent increase in such prices if it had been sincerely anxious that no favors be shown. But in some cases the unit prices would be difficult to increase by just 2 per cent, *e.g.*, subway fares; in others, the local governments have a hand in price fixing; and in any case the Government probably felt that it should be free to handle such services of general public interest without trying to keep exactly in line with the turnover tax, but rather with an eye to broader issues.

In the second case (stock and commodity exchange transactions,[93] insurance company receipts, amusements, etc.) the already existing taxes could readily be raised, and were. But they later on lost touch with the turnover-tax increases and it may be questioned whether these cases should not have been put in with other business transactions in the beginning. The main reason for their selection probably was that for the most part they did not concern tangible goods which could be sold and resold, but were rather isolated specimens of commercial service transactions which could not bear the superimposition of a turnover tax; otherwise it is difficult to understand why the many other commodities subject to special *contributions indirectes* (wines, beers, spirits, candles, vinegar, oils, sugar, etc.) were not exempted also, especially as many of these *contributions* were increased at the same time the turnover tax was levied.

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[92] *Cf. infra*, p. 218 *et seq.*

[93] In Thierry's 1917 proposal, commodity exchange transactions were to be exempt in the same manner. *D.P.*, 1917, *Ch.*, *S.O.*, pp. 882, 883 (No. 3452).

CHAPTER V

SHOULD THE TURNOVER TAX BE REPLACED BY SPECIAL EXCISES?

Parliamentary History. — In an effort partially or wholly to replace the turnover tax by some other source of revenue, Parliament has from time to time considered exempting certain articles of commerce from the present levy altogether, and taxing them instead at some one stage of their economic lives. The resulting "replacement taxes" have usually been levied at the production stage; hence the term "production taxes" commonly applied to them.[1] Obviously, this is in effect substituting a series of excises for the multiple-stage turnover tax. Coal, for instance, is now taxed as it leaves the French mines, or is imported, and sales of coal by anyone other than the mine producer are free of tax.[2]

Only a few months after the turnover tax had been passed a suggestion was made for a replacement tax on animals and meat, to be levied at the slaughtering stage at the rate of 2.5 per cent and collected coincidentally with the existing local slaughtering tax.[3]

There was no reason to restrict such an idea to the meat and animal trade. De Lasteyrie, Finance Minister, in a letter to the Senate on October 7, 1922, recommended that the Government be empowered to institute, by administrative decrees, "production" and import taxes to replace the turnover tax on certain articles, notably coal. The Senate Finance Committee decided unanimously that the "production taxes" were, at the best, things for the future, and rejected De Lasteyrie's plan.[4]

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[1] Although the tax is in some cases due, not upon production, but upon sale by the producer.

[2] For list of existing replacement taxes and legal details, *cf. infra*, Chap. XII.

[3] *Documents Parlementaires*, 1920 (printed in 1921 Vol., p. 751), *Chambre, Session Extraordinaire* (No. 1539); *cf.* also similar proposal by Deputy Bertrand and others, *D.P.*, 1922, *Ch.*, *S.E.*, p. 608 (No. 5309).

[4] *D.P.*, 1922, *Sénat*, *S.E.*, pp. 34, 35 (No. 624). For full text of De Lasteyrie's letter and proposed law, *cf. D.P.*, 1923, *Ch.*, *S.O.*, p. 1063 (No. 5913); also De Lastey-

But by this time the replacement-tax idea had gained such momentum that proposals were made to abolish the turnover tax completely, substituting for it a host of excise or single-stage taxes.[5] Such suggestions have not been adopted, but replacement taxes have been levied on several commodities.

The first victory of the replacement-tax concept came on February 6, 1923, when the Senate, after considerable debate, adopted Senator Perrier's amendment to establish a "production-import" replacement tax of 1.6 per cent on coal. It was passed by a majority of one vote (139 to 138). When it came to the Chamber Finance Committee later in the year, that body refused to consider it. The bill for amending the turnover tax was still under discussion; it contained no mention of replacement taxes, and the Committee did not want to delay it further by the injection of new elements into the discussion. Not that the Committee was unalterably opposed to replacement taxes; indeed, on March 28, 1923, it asked the Finance Minister to start a serious study of such levies.[6]

The Chamber did not wish to delay, however, and incorporated in the turnover-tax reform bill both coal and slaughtering replacement taxes. While this bill as a whole hung fire, Clémentel, Finance Minister in 1924, submitted his 1925 budget, in which he declared he was studying the replacement taxes carefully, especially as concerned coal, but was not yet ready to sponsor definite proposals.[7]

The new Chamber Finance Committee resulting from the 1924 elections was in no mood to wait. If it could not back a proposal to abolish the turnover tax entirely (as the campaign promises dictated), at least it could hasten its disintegration. Therefore the Committee proposed a whole series of replacement taxes. It felt that, through better collection, they would yield more than the turnover tax on the commodities under consideration (meat, coal, coffee, tea, cacao, sugar, rice, and fertilizers).

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rie's speech before the Paris Chamber of Commerce, in the latter's *Bulletin*, 1922, pp. 876, 877.

[5] *Cf.* proposals by Deputies Chautemps and Isreal, *D.P.*, 1922, *Ch.*, *S.O.*, p. 608 (No. 4260); by Deputy Cassagnac and others, *D.P.*, 1923, *Ch.*, *S.O.*, p. 650 (No. 5856); by Deputy Palmade and others, *D.P.*, 1924, *Ch.*, *S.E.*, p. 139 (No. 703).

[6] *D.P.*, 1923, *Ch.*, *S.O.*, pp. 1063, 1064 (No. 5913).

[7] *D.P.*, 1924, *Ch.*, *S.O.*, p. 1395 (No. 441).

The Chamber itself was quite willing to embark on an extensive experiment with replacement taxes, despite advice to the contrary by the Committee on Commerce and Industry,[8] and passed the taxes advocated by its Finance Committee, with the addition of one on denatured alcohol. The retail sales of most of these commodities (especially sugar, cacao, chocolate, coffee, tea, and rice) were to be freed from the turnover tax anyway under another article of the bill exempting all retail sales of foodstuffs,[9] and the primary purpose in voting the replacement taxes on these foodstuffs was to make up for the loss of revenue occasioned by that exemption. The replacement taxes on meat, coke and coal, and fertilizers, on the other hand, appear to have been broached as serious efforts to test the efficacy of the replacement-tax principle as such. Caillaux, then Finance Minister, was willing to accept the replacement taxes on coal and coke, and on meat, but refused to consider the others at that time.[10]

The Senate Finance Committee supported Caillaux; it even demanded that every one of the replacement taxes be removed from the budget bill, that they might be subjected to more thorough scrutiny. It feared higher prices, more difficult collection and more fraud if these measures were passed hastily.[11]

After a protracted struggle [12] the Chamber had its way as to the coal and slaughtering taxes, but was forced to renounce for the time being the other replacement levies.

In the following year (March, 1926) Finance Minister Péret sponsored the replacement-tax idea, but, like most Finance Ministers, only as something to be done soon but not immediately. Since Péret was asking for an increase in the turnover-tax rate at that time, he probably thought it necessary to hold out the hope of a future change.[13] The Chamber seized upon the suggestion at once, however, and passed replacement taxes for fertilizers and coffee and tea (the last two being simply import taxes). The Senate concurred, without the opposition it had shown the year before. Thus by the middle of 1926 the turnover tax had been replaced by taxes analogous to the *contributions indirectes*[14] or to import duties as concerned five important commodities. Parliament was far from content with this progress, however, and created a commission to study the problem and propose ways in which the principle could be extended to cover a wider field.[15]

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[8] *D.P.*, 1925, *Ch.*, *S.O.*, p. 300 (No. 1306).

[9] *Cf. supra*, p. 118.

[10] *Débats*, 1925, *Chambre*, *Session Ordinaire*, p. 3405 (July 11).

[11] *D.P.*, 1925, *Sénat*, *S.O.*, p. 993 (No. 402).

[12] For more details, *cf.* account of each of the replacement taxes finally passed, *infra*, pp. 135–156.

[13] *D.P.*, 1926, *Ch.*, *S.O.*, p. 433 (No. 2745).

After appointments had been made to this commission,[16] a subcommission to study foodstuffs was created.[17] Upon it sat an *inspecteur-adjoint* of the Finance Ministry, and several manufacturers, and presidents of federations, committees and *syndicats* of the different branches of the foodstuffs trade. At first, there was a notable clash of viewpoints,[18] but this was overcome in large part and on February 10, 1927, the subcommission voted in favor of a series of replacement taxes on foodstuffs.[19] Its arguments were not applicable peculiarly to foodstuffs; it contented itself with a broadside against the turnover tax as applied to almost all trade and industry, noting that identical products bore different amounts of tax according to the trade channels they came through, that profound changes had been caused in business organization as wholesalers and retailers were changing themselves into commission merchants, and manufacturers were coming to do work by the job,[20] and claimed that the tax favored certain business men as against others and had become a "transmission tax" weighing on business instead of a consumption tax as had been intended.[21]

But otherwise the replacement-taxes commission gave little, if any, signs of life. Its chairman, although an advocate of replacement taxes, had said upon his appointment that if he had to vote at that time he would vote against them, for very careful study was first necessary.[22] However much the Chamber may have appreciated this cautious attitude, it was becoming restive under the delay.[23] A proposal was made to lay a 6 per cent replacement tax on sugar,[24] but the Finance Committee put it off, hoping that a complete series of replacement taxes on foodstuffs could be put through instead. This met with opposition from Poincaré, and, it seems, from the Tax Administration also.[25]

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[14] *Cf. infra*, p. 132.

[15] Law of April 4, 1926 (art. 60).

[16] *Arrêté* of May 16, 1926.

[17] *Arrêtés* of Nov. 28 and Dec. 8, 1926.

[18] *Déb.*, 1927, *Ch.*, *S.E.*, p. 3847 (Dec. 11), Deputy Paqué.

[19] For details, *cf. infra*, p. 139.

[20] *I.e.*, merely working on raw materials without owning them.

[21] The subcommission's report is reproduced in *Journal des Contributions Indirectes*, March 1, 1927.

[22] Quoted in *Rapport*, Société pour la Défense du Commerce et de l'Industrie, Marseille, March 23, 1926, p. 2.

Why was Poincaré opposed to additional replacement taxes? At one moment he appeared to hedge, declaring that the commissions had indeed worked with zeal and had submitted several conclusions to him, that he was not opposed to a certain extension of the replacement-tax idea, but that it should be realized such taxes would raise the cost of living in certain cases, and that it was best to proceed slowly.[26] At other times he was outspoken in his denunciation of the replacement-tax principle.

> I recalled to the Finance Committee [said Poincaré] the slaughtering tax, as a production tax of secondary importance. For a year I have had no relief from being challenged, questioned, and harassed on the methods of levying this tax. At this moment, in the budget bill you are now considering, still more modifications are asked of me. A production tax has in reality but one superiority, one advantage over the turnover tax: it does not exist. The day when it shall exist, it will be still more distasteful to the taxpayers.[27]

Pressure by the Chamber was too strong to let the matter drop entirely, however, especially as Poincaré now (December, 1927) admitted that a replacement tax on sugar had been worked out which had received his approval. The Chamber Finance Committee after examination had rejected the proposal as it had a similar one earlier in the year.[28] But sensing the way the current of opinion was flowing, its reporter-general, Chappedelaine, hastened to announce that it would sponsor the proposal after all. The Chamber voted the tax without even having a text of the law before it to study. It also voted a replacement tax on oil and its products but this was rejected by the Senate, which, however, was willing to see the sugar tax tried. In both houses the sugar tax went through with a minimum amount of discussion and no necessity for a roll call.

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[23] So were certain business circles: *cf.* the request of the Conseil Confédéral de la Confédération des Groupes Commerciaux et Industriels de France, in *Le Matin*, July 8, 1927.

[24] *Déb.*, 1927, *Ch.*, *S.O.*, p. 477 (Feb. 22).

[25] So Deputy Bouat claimed. *Ibid.*, *S.E.*, p. 3846 (Dec. 11). The *J.C.I.* was hardly enthusiastic about it (March 1, 1927, p. 207). Interviews with officials of the Finance Ministry by the writer confirm this impression.

[26] *Déb.*, 1927, *Ch.*, *S.E.*, pp. 3846, 3849 (Dec. 11).

[27] *Ibid.*, p. 3849 (Dec. 11).

[28] *Cf.* Deputy de Tinguy du Pouët's speech, *Déb.*, 1927, *Ch.*, *S.O.*, p. 477 (Feb. 22), and *J.C.I.*, March 1, 1927, p. 206.

Lately the Administration has shown an increased interest in replacement taxes. Almost three years after the enabling article, a ministerial *arrêté* of March 11, 1929, has formed two special commissions to study the possibilities of replacement taxes on chemicals and metal products.[29]

The chief significance of the French replacement taxes lies in their expression of the wish of hundreds of thousands of small business men to be freed from the "inquisition" of the tax collector. Thus they spring from the same impulses which produced the *forfait*, or estimated tax base system, and which might better have found expression in the complete exemption of all those with a turnover of less than a certain amount. They are decidedly not a sign of revulsion against indirect taxation, for they are but a series of fairly heavy excises levied at some one stage of a commodity's economic life, to replace a lighter tax levied several times. Indeed, one of the strongest barriers to their extension is the desire of Parliament to make them duplicate — with certain exceptions — the existing distribution of burden and revenue yield as imposed by the turnover tax.

Obstacles to Further Extension of Replacement Taxes. — This latter point has been particularly prominent in debates on the subject because the replacement taxes have been instituted in a piecemeal fashion. Some few commodities have been selected for the experiment; the State could not afford much, if any, loss in revenue from the change, and this thought has led naturally to the premise that each replacement tax must so far as possible duplicate the burden distribution of the turnover tax. At once this has led to difficulties and restricted the choice of commodities. If the new tax be levied at some early stage in the economic life of the commodity, say raw wool, and exemption be granted to all subsequent sales of that commodity in its various forms — woolen cloth, clothes made of wool — will not the seller or the consumer of the more highly finished forms be favored, and those of the more elementary forms be put at a disadvantage relative to their status under the turnover tax?[30] Obviously, yes, since the rate applied to the raw wool to yield the same revenue must be somewhat more than the cumulative turnover-tax rates applied to the simpler and cheaper wool products, and somewhat less than those on the more expensive. This objection has been met with the suggestion that the replacement tax be levied at a later stage: in the case of wool, for instance, on the manufacture of woolen cloth, all previous and subsequent stages being exempt,[31] but this would allow such woolen yarn as never went to cloth manufacturers to escape taxation altogether, and would raise a difficult question of exemption if the woolen cloth were sold again in combination with some other material which remained subject to the turnover tax. To overcome these objections the replacement tax might instead be collected whenever any article is sold, not to be further transformed or combined with other articles, but merely to be marketed and consumed. In other words, sales to manufacturers or assemblers would be exempt; sales to merchants would be subject to the replacement tax.[32] The difficulty of avoiding double taxation of the same piece of goods is obvious when it is recalled that the merchant may in turn resell to another manufacturer, who would pay the replacement tax if he sold to another merchant, unless some means of tracing each particular lot of goods were devised and proper exemption granted.[33] The possibility of fraud is also apparent; the tax agent has trouble enough in finding the total sales of a manufacturer, without having to distinguish between those taxable and those tax-exempt. And the distinction between "manufacturer" and "merchant" would be a difficult one. Would one be granted the title "manufacturer" in so far as he purchased grease, not to work up and resell, but to consume in his machines?[34]

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[29] An *arrêté* of Nov. 9, 1929, announces the appointment of still another special commission, this one to study the paper industry. *Cf.* also *infra*, p. 359.

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[30] *J.C.I.*, Feb. 8, 1926, p. 85. *Cf.* also statement by Chamber of Commerce of Cambrai, cited *ibid.*, March 22, 1925, p. 157, and by that of Rouen (*La Question de l'aménagement de l'impôt sur le c.a.*, 1923, pp. 14, 15).

[31] *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 23, 1926, in which experts reporting on possible replacement taxes for vegetable oils, soap, sulphur, superphosphates, tartaric acid, and metals suggest the finished-product stage rather than the raw-materials stage.

[32] Belgium, which has substituted a tax upon importation and production, for the "transmission" tax on butter, meat, fertilizers, vegetable products, coal, building materials, and others, has for other commodities levied the replacement taxes at the stage where the goods pass to retailers or consumers. The plan was fairly well received, at least at first. (*J.C.I.*, Feb. 8, 1926.)

The rate to be levied in each case would have to be determined by: (*a*) the number of times the material has already changed hands and the value of the product at each of these changes of ownership; (*b*) the same considerations for the estimated future life of the product until it reaches the consumers.

Of course all such complications could be swept away if the French were willing to levy a miscellaneous series of excises here and there, wherever a tax might seem easiest to collect, and without regard to the existing distribution of burden under the turnover tax. But this they are unwilling to do, and reasonably so, in so far as "an old tax is a good tax," and considering also that the turnover tax, opportunistic though it may be, does not distinguish very severely between consumers on the basis of what kind of things they purchase (excepting luxury articles). But if there were advantages of moment to be gained by substituting for the turnover tax a series of excises, too much care should not be given to reproducing exactly the present burden distribution of the turnover tax, for very few indeed have attempted to show that this distribution (granted even that one knows approximately what it is) is justifiable from any but a revenue point of view.[35]

In reality, the task of duplicating the existing turnover tax burden is an impossible one, in view of the fact that not even identical commodities follow identical paths. One piece of wool may change ownership a number of times, another only a few times, before reaching the cloth manufacturer, and the same applies to its subsequent marketing life. Future changes in manufacturing and marketing methods would certainly make the distribution of burden under a replacement tax far different from that which would exist if the turnover tax were kept. It is not necessary to labor the point that duplication of the existing burden, obviously impossible if the tax be levied at an early stage, is in all strictness likewise impossible if the levy is made at a later stage, and in addition the latter choice would bring with it almost insoluble administrative difficulties. One is inclined to agree that if the replacement taxes are ever used to any great extent partially or wholly to abolish the turnover tax, the advocates of the change will be willing to forget about preservation of the existing distribution of burden.[36] Indeed, they are even now ready to do so, in so far as it would result in removing the advantages which the turnover tax gives the integrated concern, and the burden it imposes on middlemen.

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[33] For difficulties in the path of this, *cf.* Mascarelli-Giaume, *De la transformation de la taxe sur le chiffre d'affaires en taxe à la production*, pp. 58–61.

[34] *Cf.* illustrations of sales "for consumption," "at retail," *infra*, pp. 196, 259.

[35] *Cf. supra*, pp. 8, 21.

Unfortunately for the prospects of the replacement taxes, there are other powerful arguments against them, not concerned with the difficulties of duplicating the distribution of burden of the turnover tax.

The determination of the proper rate to be levied in order that the State may not lose by the change, is a most difficult matter.[37] Even granted it could be found in each case, it would certainly have to be higher than that of the turnover tax. This would be particularly marked if the tax were levied at the raw material stage, where the size of the tax base is relatively small,[38] especially if the commodity were one which, in later stages, took on much added value, or were one on which the retail luxury rate is now levied. This high rate levied on one taxpayer would encourage evasion more than does a low rate spread over several taxpayers. Also the high tax, if collected at an early economic stage of the commodity, would increase the banking charges of the one who buys from the replacement-tax payer, and of all subsequent buyers and sellers, and this, it is argued, would lead to inflation.[39] Perhaps the increase would be more than the amount of the banking charges; the dealers in the commodity might try to apply their customary profit percentage, or mark-up, to the total purchase price including tax, and make a "profit on the tax,"[40] although it would appear that either competition would not allow this, or demand might shrink too much. The only added expense to cover would be the banking charges, or else the interest on his own money the dealer could get elsewhere. To say that he could retain still more from the consumer would be to suggest that he had not realized fully the possibilities of his market before they were forced upon him by this tax. In any case the high rate would be dangerous for the taxpayer, especially if one adopts the prevalent French view that often the tax is not shifted in times of business depression. Failure to shift a high-rate tax might lead to wholesale failures and consequent disorganization of business.[41]

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[36] *Cf.* Mascarelli-Giaume, *op. cit.*, p. 86.

[37] Though Austria has in fact worked out a varied system of replacement taxes. *Cf.* National Industrial Conference Board, *General Sales or Turnover Taxation*, pp. 27, 28.

[38] The rate necessary to duplicate the yield of the turnover tax has been estimated at 20 per cent for wool and cotton. Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 4, 1927. *Cf.* also tables in Mascarelli-Giaume, *op. cit.*, pp. 139, 140, where the rate on wool is estimated at 26.4 per cent.

If the tax were levied at an early stage the revenue would fluctuate with raw-materials prices, and hence be less stable than under the present system, where changes in raw-materials prices play a relatively small part in affecting the total tax yield.[42]

All of these objections, save to a certain extent the height of the rate, could be obviated by levying the tax at some late economic stage of each commodity. But in this way the simplicity of administration would be endangered. There would be more taxpayers to watch, especially if the tax were levied near the retail stage, and this would destroy the main reason for introducing the replacement taxes. The large number of different rates might readily lead to political logrolling and favoritism under the name of "adjustment." [43]

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[39] *Cf.* protest of Chambre de Commerce de Cambrai against replacement taxes, cited in *J.C.I.*, March 22, 1925, p. 157, and Mascarelli-Giaume, *op. cit.*, pp. 164–169.

[40] So claim Allix and Lecerclé, *La Taxe sur le chiffre d'affaires*, p. 343, where they calculate that the consumers' burden could be increased by as much as 40 per cent of the tax going to the Treasury, this extra payment being retained as profit by the various dealers. *Cf.* also *J.C.I.*, Feb. 8, 1926; Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 24, 1925, p. 20; Mascarelli-Giaume, *op. cit.*, p. 188 *et seq.*, and *infra*, p. 323.

[41] *Cf.* Mascarelli-Giaume, *op. cit.*, pp. 160, 161.

[42] *Ibid.*, p. 47.

One objection which would apply no matter at what stage the tax is levied is expressed by the fear that business men would not, in setting prices, take account of the exemption from the turnover tax to be granted to their sales, but would merely add the charge of the replacement tax to the prices existing prior to its inauguration and pocket the 2 per cent which they would no longer need pay the Treasury.[44] One would be inclined to discount heavily this sort of argument, implying as it does such a large measure of control of prices by the seller within a certain range and an utter lack of competition, were it not advanced by some of the best-known students of French finance. This latter fact indicates that the force of custom and lack of close figuring is more common in French business circles than in an economic society patterned after standard treatises.

Overcoming the Obstacles. — The formidable disadvantages outlined above would have kept replacement taxes in the theoretical stages were it not that a select group of commodities escape most of these objections, while there are in these same cases certain undeniable advantages in replacing the turnover tax. Coal, meat, fertilizers, coffee and tea, and to a lesser extent sugar, have been found fairly suitable for the experiment; their cases are discussed individually below. The advantages to be gained by replacement taxes concern administration, imports and exports, and certain economic effects.

If a suitable commodity is chosen, there are fewer taxpayers for the Administration to control, they are usually fairly large so that the "overhead" of tax collection expense is small per franc of revenue received, and they are ordinarily easy to locate and check up on, in contrast to the numerous small retail dealers. This means much less trouble for the small taxpayers as well. Doubtless the inspection of each large taxpayer would have to be more thorough than in any individual case under the present system, both because so much revenue could hinge upon each case and because of the temptation to assume the rôle of tax-exempt merchant along with that of tax-paying producer.[45] But with the technique already developed for the *contributions indirectes* — excises entirely unconnected with the turnover-tax system — on wines, beer, liquors, alcohol, gasoline, oils, vinegar, salt, candles, and playing cards, this *exercice* or strict control might be carried out fairly well. Indeed, if the replacement taxes simply took the form of increases of the already existing *contributions indirectes* on these articles, the problem of control would be greatly simplified. The reasons these commodities have not been selected are found in the objections mentioned above, but certain of them, especially wines, gasoline and oils, and salt seem far better adapted for replacement taxes than, for instance, metals and metal products, as has been recently proposed.[46]

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[43] *Ibid.*, p. 236.

[44] *Cf.* Allix and Lecerclé, *op. cit.*, pp. 335–346; Nogaro, in *Déb.*, 1926, *Ch.*, *S.O.*, p. 3406 (July 11); Mascarelli-Giaume, *op. cit.*, pp. 190, 191.

It must be admitted that if the replacement taxes are to be universal, levied on every raw material or on every manufactured product, the administrative advantages would be slight if any, and the total burden on both tax agents and taxpayers might be greater than at present. Especially would this be so if an attempt were made to tax all farmers, or to levy the tax on manufacturers and grant proper exemptions as outlined above.[47] The administrative advantages are most noticeable in the present system of partial replacement where a few select commodities are put under the new régime. Even here, the host of retailers are not necessarily freed from "inquisition"; a grocer selling sugar is exempt from the turnover tax on that article but he must submit to the tax agents' inspection as concerns the other commodities he sells, still subject to the turnover tax.

More protection is given the French manufacturer and merchant, granted that the replacement-tax rates are applied to imports; were coal subject to the regular turnover tax, the import tax upon it would be 2 per cent instead of the present 2.5 per cent, and sugar would pay only 2 per cent instead of the present 6 per cent. But the administrative difficulties of collecting a high *ad valorem* import tax must not be overlooked; for this reason it has been suggested that the tax be levied, not upon importation, but upon sale by the importer.[48] In any case it would be a delicate task to calculate the proper compensatory duties on, say, imported cotton cloth, if the domestic replacement tax were levied not on cotton cloth but on raw cotton. The increase in import duties would almost certainly cause trouble in foreign relations.

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[45] A soap manufacturer may also buy and resell soap; if a replacement "production" tax were levied on soap, it would be to his interest to represent a large part of his inventory as purchased from others, not made by himself.

[46] *Cf. infra*, pp. 156, 359.

[47] *Cf. supra*, p. 127; also Mascarelli-Giaume, *op. cit.*, p. 94 *et seq.*, and p. 115, containing a strong protest against the inevitable *exercice;* and report of Fernand Faure, cited in *J.C.I.*, Aug. 1, 1929, p. 354, in which it is concluded that the replacement taxes have on many occasions necessitated more control measures than did the turnover tax.

The burden on exports is lightened if the provision is made (as has been done so far) that commodities destined for export be exempt from the replacement tax; under the turnover tax, exports receive only a 2 per cent exemption, all sales previous to the last one remaining taxable. Admittedly it is difficult to gain this advantage if the tax is levied at the raw-materials stage and the commodity follows a devious path before being exported,[49] or indeed in any case where the one who exports is not the one subject to the replacement tax. Under the present replacement taxes, goods exported directly by the taxpayer are exempt from the tax; but if they are sold in the domestic market and later exported by someone else, no refund is granted. This tends to concentrate exports in the hands of manufacturers.

The tendencies toward vertical integration [50] and elimination of dealers in favor of brokers, etc., are checked, thus allowing a return to more "normal" trade conditions.

Future Prospects. — The replacement taxes have had to make their way against much opposition, both inside and outside of business circles.[51] Business men in general are much impressed by the difficulties in the way of complete replacement of the turnover tax,

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[48] *Cf.* Mascarelli-Giaume, *op. cit.*, p. 98 *et seq.*

[49] For a good analysis of administrative difficulties, *cf.* Mascarelli-Giaume, *op. cit.*, pp. 180–186.

[50] *Cf.* Letter to Finance Minister, from Société pour la Défense du Commerce et de l'Industrie, Marseille, Jan. 21, 1926.

[51] *Cf.* especially, criticism in Allix and Lecerclé, *op. cit.*, pp. 339–354, and Mascarelli-Giaume, *op. cit.*, *passim;* also *J.C.I.*, Feb. 8, 1926, pp. 85, 86. Finance Ministry officials told the writer they did not favor a wide use of the replacement taxes.

and partial replacement for certain especially suitable commodities only has been as much as they have dared advocate,[52] although certain groups that might benefit especially from the change, such as retailers, have shown more enthusiasm.[53] The especially suitable commodities are not large in number, for not many (*a*) constitute the sole line of the producer and dealer and enter into no combination with other commodities in a finished product so that discrimination between taxable and tax-exempt sales is not difficult, (*b*) follow but one or few paths with no great disparity among the values in the various finished stages so that the existing distribution of burden can be roughly maintained. Unless Parliament is willing to change radically the existing burden distribution and take a chance on getting enough revenue from the new taxes to replace the segments chopped off the turnover tax, further extension of the replacement taxes is remote indeed. But there is continual pressure from the large electoral body of small taxpayers, and a move toward their "relief" may be made at any time political considerations seem to demand it. A compromise might be reached along the line suggested in certain business circles, whereby all sales of all commodities after their form utility has been fixed — *i.e.*, after they leave the last manufacturing stage — would be exempt from the turnover tax, a replacement tax being levied upon sale by the last manufacturer, and all sales previous to this stage remaining under the turnover tax.[54] The difficulty of deciding whether an article bought and sold by a wholesaler is going to a consumer or to a manufacturer for further transformation, and the difficulty of defining "consumption" are probably strong enough to check for some time this proposal, which as yet has shown no indication of being adopted by Parliament. It would be only a half-measure of "reform" which would probably satisfy no one.[55]

[52] *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 24, 1925, noting opinions of other business groups; also, subsequent *Rapports* and *Bulletins* of this Société; and Chambre de Commerce, Marseille, *Rapport*, Feb. 13, 1925. *Cf.* also Allix and Lecerclé, *op. cit.*, p. 340, citing resolutions of three business groups against the replacement-tax proposals.

[53] *Cf. infra*, p. 141, and Mascarelli-Giaume, *op. cit.*, pp. 6, 7.

[54] *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 23, 1926.

[55] *Cf.* Mascarelli-Giaume, *op. cit.*, pp. 51–53.

Coal. — Coal was one of the first commodities to receive attention as a prospective candidate for a replacement tax. This was because it fulfills fairly well the requirements outlined above,[56] and because the turnover tax on coal had worked out rather poorly, both from the taxpayer's and the Administration's points of view.

Evasion, perfectly legal, was reducing the yield of the turnover tax on coal. A transformation was occurring in the ranks of the coal dealers. The *négociants*, or wholesale buyers and sellers of coal, were becoming mere commission merchants, and as such paying the tax only on their gross commissions instead of on the value of the coal they handled. There were also indications that some coal-using concerns had resorted to vertical integration — that is, purchasing coal mines and thus amalgamating with their source of supply — partly, at least, to avoid the turnover tax.[57]

In addition, it was difficult to prevent fraudulent evasion at the retail stage.[58]

A replacement tax levied at the mine and on imports would give the Administration far fewer taxpayers to bother with; the importers and coal producers within France are for the most part fairly large concerns, readily known to the tax collector, and with the necessary records for computing and checking the tax.[59] Finance Ministry figures were cited to show that the number of turnover-tax payers dealing in coal was 12,000, whereas a replacement tax on coal would touch only 330 taxpayers.[60] It could not be concluded from this, however, that over 11,500 would thus be relieved from fiscal "inquisition," as many wholesalers and retailers of coal are at the same time engaged in other lines as to which the turnover tax would still be levied.[61]

The control of these replacement-tax payers would be easy, compared with the problem under the turnover tax. Through the Government's *Service de Mines* and the Tax Administration's own surveillance, no coal could be imported or leave the French mines without the knowledge of the authorities.

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[56] *Cf. supra*, p. 134.

[57] *Déb.*, 1923, *Sénat*, *S.O.*, p. 254 (Feb. 6).

[58] Finance Minister's statement, *ibid.*, p. 259.

[59] *Cf.* letter of Finance Minister François-Marsal, *D.P.*, 1923, *Ch.*, *S.O.*, p. 1063 (No. 5913).

[60] *Déb.*, 1923, *Sénat*, *S.O.*, p. 254 (Feb. 6). This estimate proved conservative; there were only 263 coal-tax payers in 1926. *Cf.* Table 4 (p. 75), footnote *c*.

[61] This also renders uncertain the value of statistics purporting to show the amount of turnover tax collected on coal at the wholesale and retail stages. *Cf.* remarks of reporter-general of Senate Finance Committee, *Déb.*, 1923, *Sénat*, *S.O.*, p. 256 (Feb. 6).

The most troublesome questions arose in deciding whether or not a replacement tax on coal could and should maintain fairly well the existing distribution of burden as imposed by the turnover tax, and whether the rate could be fixed beforehand with sufficient accuracy so that the Treasury would not lose by the change.

It was impossible to pretend that the distribution of burden would remain exactly the same, especially since the replacement tax was to be of one rate only, levied at the earliest possible stage. Nevertheless this very difficulty which has so bothered those who attempt to draw up plans for the future extension of replacement taxes, was not thought to be important enough to check the reform; the changes it did bring were welcomed by the majority of deputies, representing the small merchants rather than the large industrial and public utility concerns. The replacement-tax rate would have to be higher than the existing turnover-tax rate, to yield the same revenue, and large users of coal buying directly from the mines would be the sufferers. Opponents of the tax feared its effect on railroads, public utilities[62] and large factories, claiming that it would necessitate increased rates for the first two, and would bring a serious check to the export trade of the third. Some doubt was also expressed as to whether the small users of coal would benefit by the shift; might not the middlemen simply pocket the difference?[63]

To the advocates of the replacement tax, the added charge on large users seemed but the rectification of an existing injustice. Why should the householder and the small business man have to purchase coal which had been burdened by a turnover tax two, three or even four times, while the large factory and the railroads got coal which had been taxed only once, or not at all? Arguing that

[62] Railroads would have to pay 4 million francs more per year for their coal, and gas works 2.5 millions, said Senator Coignet. *Déb.*, 1925, *Sénat*, *S.O.*, p. 1457 (July 9). The *Chronique de Transports* estimated the added expense to railroads, at the 1.6 per cent rate, to be 10 millions. Cited in *J.C.I.*, May 22, 1923, p. 271.

[63] *D.P.*, 1923, *Ch.*, *S.O.*, p. 1064 (No. 5913).

the sales price of all units of a manufactured good was that which the small manufacturer found it necessary to ask, Senator Perrier declared that the large concerns, using cheaper coal, simply kept for themselves the difference. From three-fourths to four-fifths of the total coal consumed in France is used by large factories, railroads, utilities, etc., and a replacement tax with a higher rate could thus give a larger yield and at the same time lift some of the burden from the small consumer.[64]

The proper rate to levy, to get the equivalent of the total revenue coming from the turnover tax on all sales and imports of coal, could be calculated with fair accuracy, because of official statistics on the amount of coal imported and mined. In 1921, 23,146,000 *tonnes* of coal were imported, on which 28,930,000 francs were collected, the existing import tax (compensatory for the domestic turnover tax) being one per cent.[65] Supposing a replacement tax of 1.6 per cent to be levied, as was at first proposed,[66] the burden on imported coal would be increased by close to 17 million francs. Furthermore, the coal mines in France would likewise pay 60 per cent more on their domestic sales, on which 28,491,000 francs were collected in 1921 — another increase of 17 million francs. To counterbalance this would be the exemption of all other sales of coal, from which only 4,463,000 francs were collected in 1921.[67] Figuring on a 1921 basis, it appeared that a 1.6 per cent replacement tax would levy an additional burden of about 30 million francs; whether it would be a heavier burden than the turnover tax which would have been paid, assuming no legal or illegal evasion, is another matter.

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[64] *Déb.*, 1923, *Sénat, S.O.*, pp. 253, 254 (Feb. 6). The Chamber Finance Committee estimated that of the coal or coke consumed in France (year not given), 62 million *tonnes* (one *tonne* = 1,000 kilos) were *coke métallurgique* and *charbon industriel;* 16 million *tonnes*, *charbon ordinaire* and *coke;* 3 million *tonnes*, anthracite. *D.P.*, 1925, *Ch.*, *S.E.*, p. 2068 (No. 537). Senator Berthoulet said the coal merchants promised to reduce prices to consumers if the replacement tax were levied. *Déb.*, 1925, *Sénat, S.O.*, p. 1458 (July 9).

[35] State tax only, and save when the coal was not shipped to France directly from producing country; in that case the one per cent surtax (State tax only) also applied. *Cf. infra*, pp. 300–302.

[66] *Cf. infra*, p. 138.

[67] Statistics given by Finance Minister to Senate. *Déb.*, 1923, *Sénat, S.O.*, p. 258 (Feb. 6).

Tax officials later estimated that the replacement tax at a 1.65 per cent rate would yield 136 million francs in 1926 — exactly the same amount expected by Perrier for 1923, with a 1.6 rate — while 147 million francs would be lost through abolition of the turnover tax,[68] more than twice the loss as formerly calculated on a 1921 basis. The estimate of yield proved to be about 11 millions too low.[69]

The coal replacement tax has probably caused no appreciable gain or loss to the Treasury; [70] had the turnover tax been collected with no evasion, the change would have shown a net loss. At least the new tax has exceeded official expectations in yield. In 1927 it yielded about 213 millions, in contrast with the estimate in the 1927 budget of 186 millions. This was almost exactly in agreement with the calculation of Finance Minister Péret, who, asking for a rate increase in 1926, estimated 70 millions additional revenue to be gained from the change over the original 1926 estimates.[71]

The parliamentary history of the coal tax has been comparatively uneventful. The main difference of opinion between the Chamber and the Senate was on the specific-*ad valorem* rate question, but the Chamber, following the recommendation of its Committee on Mines, accepted the *ad valorem* principle, originally proposed by Senator Perrier and adopted by the Senate.[72] The height of the rate caused some difficulty; Perrier's proposal for a 1.76 per cent rate (1.6 for the State plus 0.16 for the local-finances fund) was countered in the Chamber by specific rates which, on an *ad valorem* basis, worked out at about 1.34 per cent (industrial coal and coke), 3.13 per cent (domestic coal and coke), and 2.86 per cent (anthracite), with one-thirteenth of the yield going to the local-finances fund. The Senate stood out for the unified rate on all coal and coke, fixing it at 1.8 per cent (1.65 for the State, 0.15 for the local-finances fund),[73] and the Chamber finally agreed.

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[68] *D.P.*, 1926, *Ch.*, *S.O.*, p. 2146 (No. 1990).

[69] The actual yield was 198,212,800 francs, but allowance must be made for the increase in the rate, made in 1926 from 1.65 to 2.35 per cent (State's share only), which applied for roughly nine months of 1926.

[70] Interviews at Finance Ministry by the writer; *cf.* also Mascarelli-Giaume, *op. cit.*, p. 206.

[71] *D.P.*, 1926, *Ch.*, *S.O.*, p. 486 (No. 2791).

[72] The Chamber Commission had at first proposed specific rates of 2 frs. 15 per *tonne* for industrial coal and coke, 5 frs. per *tonne* for domestic coal and coke and 10 frs. per *tonne* for anthracite. These it contrasted with the existing average burden of the turnover tax which it calculated at 6 frs. 24 per *tonne*. *D.P.*, 1924, *Ch.*, *S.O.*, p. 2068 (No. 537).

The coal replacement tax is probably the best of the major replacement taxes; at least such seems to be the Administration's opinion.[74] There has been no concerted opposition to the tax in business circles.[75]

Foodstuffs.— The most extensive application of the replacement-tax concept has been in the case of foodstuffs. The only definite conclusion to which the special Replacement-Tax Commission appears to have come concerns foodstuffs, where a total abolition of the turnover tax is suggested.[76] But that goal has not been reached. Meat, sugar, coffee, tea, and cacao are the only foodstuffs at present subject to a replacement tax.

The Commission's report on foodstuffs is of interest in that it outlines a possible mode of procedure to be followed in case Parliament ever decides to adopt its recommendations. Certainly its plan reveals no simple, easily collected tax, or rather system of taxes. It proposes to levy the replacement taxes on foodstuffs at one of three stages: upon sale by an importer, upon purchase from the French producer as concerns foodstuffs undergoing no transformation, and upon sale by the last manufacturer in the case of all other foodstuffs.

Many criticisms can be directed against this plan.[77] Some provision would have to be made for foodstuffs imported directly by consumers, not resold in France. As for the second group, "how could the tax be collected from the consumer buying on the market place [direct from the farmer] a pair of chickens or a pound of butter?" [78] Even if that could be done would not the farmers protest against the removal of the exemption which their products now enjoy in such a case? How could the tax collector know whether the fruit sold by the farmer to a middleman was going to remain "untransformed" or was instead going to a cannery? In the latter instance the case would fall in the third group, and collection of the tax would be deferred until the canner had sold his product. In this third group would be certain commodities (*e.g.*, refined sugar) which might or might not go through another manufacturing process (*e.g.*, be incorporated in candy); in the one case the tax should be collected as the sugar is sold by the refinery, in the other case the sugar should go free and the candy only be taxed, upon sale. There was talk of establishing *titres de mouvement*, somewhat similar to those now used in the *contribution indirecte* on wines, whereby the payment of the tax on the sugar, or whatever it became incorporated in, would be guaranteed, so that fraud could be checked when the sugar ostensibly intended for use in candy would be freed from tax upon leaving the refinery. But all this is away from simplification, not toward it. None of these provisions is used in the sugar tax; instead, a rebate is given to the candy manufacturer.[79]

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[73] *Déb.*, 1925, *Ch.*, *S.O.*, p. 3464 (July 12).

[74] Statements to the writer.

[75] For a strong plea in favor of the tax, made before it was passed, *cf. La Question de l'aménagement de l'impôt sur le c.a.*, Chambre de Commerce, Rouen, 1923, pp. 6–13. *Cf.* also explanation of the advantages of the tax as viewed by M. Delattre-Lemarce, President of the Chambre Syndicale des Négociants en Charbon, in *La Journée Industrielle*, March 7, 1925.

[76] *Cf. supra*, p. 33.

[77] *Cf. J.C.I.*, March 8, 1927, pp. 218, 219; Allix and Lecerclé, *op. cit.*, pp. 351, 352; Mascarelli-Giaume, *op. cit.*, p. 119 *et seq.*

[78] *J.C.I.*, March 8, 1927, p. 218.

The Commission's report also proposed that "payment of the tax should not be demanded of the taxpayers until after they have recouped it from their customers," and that "the amount of the tax should obligatorily be billed separately by the taxpayers and by subsequent dealers when they sell to other merchants." The reasons for this were not wholly clear, but apparently the Commission wished to make the tax at least appear to be entirely shifted.[80] The latter of these two requirements seems also to have been inserted to hinder fraudulent understatement of sales,[81] and to aid in unravelling the tangle that would develop when a commodity, after passing through several hands, was exported. Exported commodities were to be free of the replacement tax; but as that tax might already have been levied and collected several stages back, a refund by the Treasury to the exporter would be necessary.

[79] *Cf. infra*, p. 286.

[80] Or to prevent the merchant from adding the tax to the base on which the mark-up, or profit percentage is calculated; certainly an idea of "childlike ingenuousness" — Allix and Lecerclé, *op. cit.*, p. 345. *Cf. supra*, p. 130.

[81] *Cf.* Mascarelli-Giaume, *op. cit.*, p. 126.

A nice question then arises as to whether the exporter should pass the refund back to the one who has paid the replacement tax [82] or whether the exporter should keep the refund himself, on the theory that the tax has been shifted along to him.[83] Another way, of course, would be to levy no tax if the commodity were declared as a possible export, and then follow it up with *titres de mouvement*, but that would be almost unworkable save in those cases where the replacement taxpayer was selling directly to an exporter, or exporting himself.

Retailers, as might be expected, have gone on record as favoring a replacement tax of some sort on foodstuffs,[84] but no marked enthusiasm for the experiment has been shown in other circles.

Meat. — The replacement tax on animals and meat was introduced at the same time as the coal tax. Much the same arguments *pro* and *con* apply to both, but in the case of meat the disadvantages of the existing turnover tax were more marked, and the advantages of a replacement tax less marked than for coal. The problem was a more difficult one either way.

The administration of the turnover tax on animals and meat was complicated by delicate problems of legal interpretation. A farmer could buy a cow and sell it later, yet avoid taxation if he had fattened the cow for some time on produce grown on his own farm. But if he had fattened the animal on grain purchased from someone else, or merely kept it for a short time before reselling it, he was taxable.[85] It was impossible for the tax agents to track down each cow's history to see whether or not the Treasury was being cheated of a few francs.

Animal traders are not fond of bookkeeping. In many of the fairs and markets, sales were usually made verbally, and no records of gross receipts were kept.

Certain circles were disquieted by the economic shifts brought about by the turnover tax. Thus, it was claimed that the farmer who sold an animal he had raised himself, had a competitive advantage over the regular animal dealers when both were striving for the slaughterhouse's trade. For this reason, animal traders were coming to act only as commission agents (thus taxable only on their gross commissions), instead of buying and selling as heretofore.[86] Or they would pretend to be such, and tax agents had great difficulty in ascertaining the truth; "fraud, in this branch of commerce, was practised on a grand scale." [87]

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[82] *J.C.I.*, March 8, 1927, p. 219.

[83] *Cf.* Mascarelli-Giaume, *op. cit.*, p. 131.

[84] *J.C.I.*, July 22, 1928, p. 391, citing resolutions of the Fédération Française des Syndicats de l'Épicerie.

[85] *Cf. infra*, p. 219.

Fraudulent evasion was prevalent not only at this stage, but also to a large extent in the retail butcher business.[88]

The advantages of a replacement tax lay in the fact that animals and meat, like coal, fulfill to a large degree the requirements noted above, as concerns (*a*) administrative problems of distinguishing taxable from non-taxable commodities, (*b*) maintenance of the existing distribution of burden.

Animals and the meat resulting therefrom are often the sole stock in trade of the dealer handling them, and usually are not sold in combination with other commodities. Hence the retail butcher, for instance, has gained a real relief from tax agents as a result of the replacement levy.

The other administrative problems, however, are not as simple as with coal. The slaughtering tax has been difficult to collect in some of the country districts where animals are slaughtered on the farm and the meat sold directly for consumption, especially since under the turnover tax such sales were exempt and the farmers have not taken kindly to the removal of that privilege. This result was apparently unforeseen by a large section of the Chamber when the slaughtering tax was passed,[89] but the law is clear that the tax is due upon any slaughtering of the animals listed [90] which results in meat for human consumption. To avoid dissension, the Administration "interpreted" the law liberally, and refrained from collect-

[86] *Cf. prop. de loi*, submitted by Bertrand and others, *D.P.*, 1922, *Ch.*, *S.E.*, p. 608 (No. 5309). Inquiries by the writer at the Ministry of Finance have confirmed these statements. Table 11 (p. 143) gives a rough idea of the quantitative relation between outright sales and commission transactions.

[87] *J.C.I.*, March 8, 1921, p. 130; Oct. 8, 1927, p. 598.

[88] Statements by Caillaux and Deputy de Tinguy du Pouët, *Déb.*, 1925, *Ch.*, *S.O.*, pp. 3466, 3467 (July 12).

[89] *Déb.*, 1927, *Ch.*, *S.O.*, p. 477 (Feb. 22).

[90] For legal details, *cf. infra*, pp. 280, 284.

TABLE 11

TURNOVER TAX RECEIVED FROM DEALERS IN (1) ANIMALS DESTINED FOR SLAUGHTER, AND (2) MEAT; 1923 ONLY[a]

(In francs)

FROM ALL DEALERS			
COLLECTED BY	TAX ON SALES	TAX ON COMMISSIONS	TOTAL
Registration Administration...	65,538,621	1,542,795	67,081,416
Indirect-Tax Administration...	62,601,942	2,227,711	64,829,653
Total........	128,140,563	3,770,506	131,911,069

FROM THOSE RETAILERS WHO IN 1924 EITHER HAD NO RIGHT TO PAY UNDER THE *FORFAIT* SYSTEM OR REFUSED THE PRIVILEGE		
	TOTAL TAX	PER CENT OF TOTALS ABOVE
Registration Administration.......	39,227,381	58.48
Indirect-Tax Administration......	36,634,097	56.51
Total......................	75,861,478	57.51

[a] Data supplied by Finance Ministry.

ing the tax when a farmer slaughtered an animal of his own raising, intending to use the meat purely for family consumption, or even when he gave part of it to a neighbor who occasionally rendered him a similar favor.[91]

But even this was not enough, for the Administration reserved the right to collect the tax on the total weight of the animal slaughtered, if any part of the resulting meat was sold. Numerous protests were heard against this, especially from the country districts where it was a custom to raise hogs as a side line and sell a part of the pork to one's neighbors. Eloquent speeches in Parliament drew attention to "the bewilderment and indignation" of the small blacksmiths, harness makers, wheelwrights, wine growers, etc., who were forced to pay the tax.[92] Relenting still further, the Administration decided to ask no tax in the case of pork, unless some of it were sold to a butcher, in which case the tax would be due upon the whole animal slaughtered.[93] Still complaints arose, and Parliament voted [94] that the tax should not apply to animals slaughtered because of accident or disease, provided the meat be not sold to a butcher to be resold.[95]

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[91] *J.C.I.*, Oct. 8, 1927, p. 599. Leniency has also been shown in cases of hospitals, schools, etc., slaughtering to obtain meat for their patients, pupils, etc.

Despite these ameliorations, evasion is doubtless still practised.[96] It is difficult to see how it can be completely checked, though it could probably be cut down somewhat. The sanitary police (often not functioning) might be strengthened, and the taxpayer be obliged to make a report to this service preliminary to any slaughtering; or the *recettes buralistes* (outposts of the Indirect-Tax Administration used largely for collection of wine taxes) might be utilized, with payment of the tax in advance of slaughtering.[97]

In the cities there has also been fraudulent evasion, through refusal to inform the tax collector of slaughterings, or through understatement of the weight of the animal or meat. No legislative action has been taken to relieve the situation, but suggestions for improvement have been made from time to time. The tax might be collected by the local officials coincidentally with the municipal slaughtering tax,[98] though the differences between the State and local slaughtering taxes introduce some complications here. Responsibility for payment might be imposed also upon the owner of the slaughterhouse, and upon the commercial buyer of the meat, thus checking to some extent fraud practised when it is difficult to determine who is the true owner of the animal at the time of slaughtering. The use of false names on the slaughterhouse registers has also caused trouble.[99]

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[92] *Déb.*, 1927, *Ch.*, *S.O.*, p. 234 (March 15), Deputy Montenot.

[93] *J.C.I.*, Oct. 8, 1927, p. 599.

[94] Law of Dec. 27, 1927, art. 31.

[95] *Cf. Déb.*, 1927, *Ch.*, *S.E.*, p. 3854 (Dec. 11), p. 4089 (Dec. 23). For further recent examples of petty troubles arising from the slaughtering tax, *cf. J.C.I.*, Oct. 1, 1928, p. 523.

[96] *Cf.* Mascarelli-Giaume, *op. cit.*, pp. 212, 213.

[97] *J.C.I.*, Oct. 15, 1927, pp. 613, 614.

[98] This is now done, in certain cities. *Cf. décret* of July 30, 1927, and *J.C.I.*, Nov. 22, 1929, p. 572.

[99] *J.C.I.*, Oct. 15, 1927, pp. 613, 614.

Although something has been gained in administrative simplicity through the slaughtering tax, the improvement has not been as great as with the coal tax. In 1926, 67,480 persons were subject to the slaughtering tax, compared to only 263 paying the coal tax.[100]

But the slaughtering tax is probably as good as the coal tax as concerns the maintenance of the existing distribution of burden. There has not been such a shift among different consumers as with the coal tax. True, city dwellers may now receive their meat slightly more cheaply than before. They get it after it has passed through more hands than in the case of rural consumers; therefore the substitution of a slaughtering tax, calculated to yield the same revenue, may have reduced the price of city meat in relation to that of meat consumed in the country. The quantitative effect of this has doubtless been very small. A report of the subcommittee of the Chamber Agricultural Committee was cited in 1923 as showing that the turnover tax had but small effect in raising the price of meat. The calculation was based on the assumption that the tax was collected only three times: from the animal dealer, the wholesale butcher, and the retail butcher. It reckoned the total burden on the consumer (apparently on the assumption that the turnover tax was shifted in its entirety to the purchaser at each stage) at 0.265 franc per kilogram of meat.[101]

In contrast to the coal tax, calculation of the exact rate to be levied to replace the turnover-tax revenue was rather difficult. There were no complete figures on consumption, and no great concentration of the commodity in the hands of a few large consumers buying directly. The estimates made were far too optimistic. The Administration forecast the revenue to come from the new tax at 400 million francs for 1926, and estimated the loss from the abolition of the turnover tax at only 160 million francs. This indicated a large amount of evasion under the existing system, as the rates of the new tax had been fixed with the intention of yielding no more — and perhaps less — than the turnover tax theoretically should yield.[102]

The yield in 1926 comparable to this estimate of 400 millions was only 240 millions.[103] Better results were shown in 1927 when the tax yielded almost exactly the amount forecast, but in comparison with other branches of the turnover-tax system it did not show up so well; the system as a whole showed an increase of more than 13 per cent over the estimates, all of which were on a supposedly conservative basis. Inspection of the manner in which the estimates were arrived at shows that less conservatism was shown in calculating the slaughtering-tax yield, however, than that of the coal tax, for instance.

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[100] Table 4 (p. 75), note *c*.

[101] *D.P.*, 1923, *Sénat*, *S.O.*, p. 1004 (No. 531).

[102] *Cf. D.P.*, 1924, *Ch.*, *S.O.*, p. 2068 (No. 537).

There was more confusion in the drafting of the law than there had been with the coal tax. The dispute between the two houses over an *ad valorem* versus a specific rate did not occur, all the active sponsors favoring specific rates, probably because of valuation difficulties; but there were important differences as to height of rates, tax base, and taxpayers.

The Chamber Finance Committee at first proposed rates of 10 centimes per kilogram of meat after slaughtering for horse meat, 11 for beef, and 22 for veal, mutton, and pork,[104] which rates the Chamber raised to 30 centimes for veal and mutton, and 20 for pork, beef, and horse meat.

The Senate at first rejected the slaughtering tax along with all the rest of the Chamber's replacement-tax proposals, but in the closing days of the regular session, July, 1925, the Chamber Finance Committee submitted a slightly changed version of the slaughtering tax, which met with the Senate's approval and became law. The domestic rates were levied, not on the weight of the meat after slaughtering, but on the live weight of the animal, and were reduced from 30 centimes and 20 centimes to 15 and 10 respectively. This made practically no change in the actual burden of the tax, assuming the live animal to weigh twice as much as the resulting meat.[105]

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[103] The actual yield was 311,909,100 frs. but this includes the results of an increase in the rates applicable roughly for the last nine months of 1926, of about 40 per cent. This average increase is hardly even approximate. Domestic and import rates on pigs and pork were increased 150 per cent; on cattle, other than calves, and beef, 25 per cent; on calves and sheep, and veal and mutton, 33⅓ per cent; on horse meat (imports), 25 per cent. By weighting these with the proportions of the different kinds of meat consumed in France, an average rate increase of from 30 to 50 per cent may be found. Nearly half the meat consumed in France, it has been estimated, is beef; pork, mutton, and veal account for over half, and horse meat for about one-sixteenth. Figures given by Finance Committee, *D.P.*, 1924, *Ch.*, *S.O.*, p. 2068 (No. 537). See also Table 12 (p. 147).

[104] *D.P.*, 1924, *Ch.*, *S.O.*, p. 2068 (No. 537).

In the original draft, the tax was collectible from (*a*) those for whom the animals were slaughtered in public slaughterhouses, (*b*) those who owned private slaughterhouses. In the latter case the tax was to be levied on an estimated basis according to the weight of the animal killed. However, this new draft said nothing as to who should be responsible for payment of the tax. Calling it simply a *taxe d'abatage*, it left to the Government the details of

TABLE 12

COLLECTIONS FROM SLAUGHTERING TAX (NOT INCLUDING IMPORT TAX ON FRESH MEAT)

FROM ANNUAL REPORTS OF INDIRECT-TAX ADMINISTRATION

(In francs)

TAX RATES: CENTIMES PER KILO OF LIVE WEIGHT BEFORE AND AFTER APRIL 4, 1926		1925 [a]	1926 BEFORE RATE INCREASES OF APRIL 4	1926 AFTER RATE INCREASES OF APRIL 4	1927
15, 20	Calves and sheep	10,705,862	27,941,048	77,947,306	123,913,570
10, 12.5	Cattle other than calves	19,654,549	39,216,055	72,994,507	124,301,487
10, 25	Hogs			53,147,773	82,994,899
10	Horses			16,016,012	7,408,516
	Total	30,360,411	287,262,701 [b]		338,618,472

[a] Last two months of the year only.

[b] The item for the total is printed as 287,182,701 in the Indirect-Tax Administration report. Whether the error is in that total figure, or in one of the constituent items presented above, is unknown to the writer.

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[105] In the case of hogs, however, this did amount to a considerable reduction. *Cf. infra*, p. 282.

assessment and collection. No reduction was allowed on imported frozen or jellied meats, in contrast to the first draft.

The Chamber Finance Committee submitted this text without having deliberated upon it as a body, and there was some criticism from the Chamber on such last-minute changes, for which no reasons were given. As to the rate and base changes, Caillaux merely said the new proposal would yield enough revenue to replace the turnover tax on animals and meat.[106] The text bore the mark of the Administration rather than of the Chamber, especially in the amount of interpretation it left to the tax officials; but the Chamber passed it without a roll call, and the Senate, weary of the long battle, also consented.

There is considerable doubt whether the slaughtering tax is better than the turnover tax was on animals and meat; even from an administrative point of view this seems to be an open question.[107] But representatives of the butchering trade were apparently not opposed to the slaughtering tax when it was first proposed,[108] and there seems no chance that it will be abolished to make a return to the turnover tax.

Sugar. — The 6 per cent tax on sugar at the refineries, most recent of the important replacement levies, is an outgrowth of the general demand for either piecemeal or complete abolition of the turnover tax rather than a result of glaring evils in the turnover tax as applied to that commodity and the peculiar fitness of the commodity for a replacement tax, as was largely the case with meat and coal.

Certainly the sugar tax does not relieve either the taxpayers or the tax collectors of as much bother as does the coal tax. Sugar is dealt in by wholesalers and retailers who handle other lines still subject to the turnover tax, and it enters into combination with other commodities likewise still subject to the turnover tax. A manufacturer of candy, for instance, is subject to the turnover tax on the full value of his product; yet this product includes a large amount of sugar, on which the turnover tax was supposedly lifted because of the heavy replacement tax now collected at the refinery. The solution adopted has been to allow a rebate to candy manufacturers and others using a large amount of sugar, equal to one-half the replacement tax collected at the refinery. The number and scope of administrative regulations that have been issued on this point [109] and the number of inquiries and complaints from tax collectors and taxpayers that have appeared already [110] testify to the complications which the sugar replacement tax has brought with it.

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[106] *Déb.*, 1925, *Ch.*, *S.O.*, p. 3466 (July 12).

[107] Statements to the writer.

[108] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2510 (June 2), Deputy Meunier.

It may be asked, why was not the candy manufacturer treated in the same way as the large industrial user of coal? The cases are similar, except that the former does not destroy the raw material in producing the finished article. This distinction may have weighed considerably with Parliament; in addition, there is not the same tender feeling for a large business unit as for a small one. Only the larger units are called upon to bear an added burden under the coal tax; the sugar replacement tax would operate to the disadvantage of small as well as large concerns unless the rebate plan were allowed. Whatever the reason may be, Parliament has in the one case been content to allow the redistribution of burden to develop unchecked, while in the other it has sought to maintain something of the *status quo*.

The replacement tax on sugar has one administrative advantage over those on coal and meat: the tax machinery for its collection was already in existence when the law was passed, for the new tax is levied at the same stage and upon the same persons as the long-established consumption tax on sugar, one of the *contributions indirectes*.

At the time of its passage in 1928, the sugar replacement tax was put through so hurriedly that no detailed attention was devoted by members of Parliament to the possible increase or decrease in revenue. In 1924, however, the Chamber Finance Committee had calculated the cumulative burden of the turnover tax on sugar to be approximately 14.62 francs per quintal, and had suggested a rate of 10 francs per quintal as being sufficient for a replacement tax.[111] This was at a time when a number of replacement taxes with specific rates were under consideration; in 1927 the *ad valorem* basis was supported without opposition, and the rate proposed, 6 per cent,[112] was adopted readily. This rate probably represents fairly closely the total burden which sugar bore under the 2 per cent turnover-tax rate.[113]

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[109] *Cf. infra*, p. 286, for legal details.

[110] *Cf. J.C.I.*, 1928, 1929, *passim.*

[111] *D.P.*, 1924, *Ch.*, *S.O.*, p. 2068 (No. 537).

The parliamentary history of the sugar replacement tax goes back to 1924, as just noted. After much dispute with the Senate, the Chamber's proposal was dropped. Opposition in the upper house was not so much to the sugar tax itself as to the series of replacement taxes as a whole, and expressed the fear of any new experiment which might upset the budget equilibrium, such as it was. Some protest was voiced in the Chamber on behalf of the French sugar beet growers, though imports were to be taxed at the same rate, and the reporter-general of the Finance Committee said sugar refiners had declared the new tax would really lighten the burden.[114] In 1927 the sugar tax was rushed through with little or no discussion.[115]

In point of yield the sugar tax is not showing itself as important as either the slaughtering, coal, or coffee and tea taxes, and the discrepancy would be seen to be still greater if figures were available for the set-offs or rebates allowed candy manufacturers and others.

Fertilizers. — It probably makes little difference whether or not fertilizers are under the turnover tax or a replacement tax, as their path to consumption is more simple and uniform than that, for instance, of coal or sugar, with the exception of certain mixtures of fertilizers. The problems of redistribution of burden and sale along with or in combination with other and dissimilar articles are not so acute. On the other hand, there seems to have been no serious trouble in the collection of the turnover tax on fertilizers such as would justify an experiment with a replacement tax.[116] As with coffee and tea, it appears to have been a case of doing away with the

[112] *Cf. J.C.I.*, March 1, 1927, p. 205.

[113] *Cf.* data given in the *Rapport* of the Société pour la Défense du Commerce et de l'Industrie, Marseille, March 24, 1925, which indicate that a rate of between 5 and 7 per cent would approximately equal the turnover-tax burden if one allows four changes of ownership in the sugar after leaving the grower's hands. If only two transfers follow (refiner to retailer, retailer to consumer), an equivalent replacement-tax rate would be between 2⅔ and 4 per cent. This is calculated on the basis of the turnover-tax rate then in force — 1.3 per cent.

[114] *Déb.*, 1925, *Ch.*, *S.O.*, pp. 1478, 1479 (Feb. 28).

[115] *Cf. supra*, p. 126.

[116] *Cf.* Mascarelli-Giaume, *op. cit.*, p. 217.

name *taxe sur le chiffre d'affaires* as long as the price to pay was not great. If the fertilizer tax has any significance, it is in the measures of control adopted by the Tax Administration, resembling the *exercice* or continual inspection, practised in the collection of the *contributions indirectes*, and to this extent foreshadows what might be expected from a general adoption of replacement taxes.[117]

As originally passed in the Chamber in 1925,[118] the replacement tax was fixed at 2 per cent on the value of commercial fertilizers produced in France or imported. Sulphate of ammonia, however, was to be taxed at only one per cent. This was a simplification of the rates proposed originally by the Finance Committee, which were specific, and varied as among nitrates and sulphates (14 francs per *tonne*), potash salts, oil cakes, cyanamide, phosphatic slag (12 francs per *tonne*), and superphosphates (7 francs per *tonne*). The Committee's specific taxes were examples of how equality in taxation is sacrificed if *ad valorem* rates are avoided, and yet too many different rates are not desired. From statistics furnished by the Committee itself, it can be calculated that the rates they proposed, put on an *ad valorem* basis, varied in reality as follows:[119]

	Per cent
Phosphatic slag	8.00
Superphosphates	3.50
Potash salts	1.71
Oil cakes	1.60
Nitrates of lime	1.555
Nitrates of soda	1.40
Sulphate of ammonia	1.273
Cyanamide	1.212
Sulphate of copper	0.777

These rates, it had been thought, would be sufficient to yield 31,448,000 francs, approximately the same as the estimated 31,000,000 francs currently yielded by the turnover tax as applied to fertilizers.

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[117] *Cf. ibid.*, pp. 221–223, and the lengthy *arrêté* of June 26, 1929.

[118] *Cf. Déb.*, 1925, *Ch.*, *S.O.*, p. 1484 (Feb. 28).

[119] *Cf. D.P.*, 1924, *Ch.*, *S.O.*, p. 2069 (No. 537). This report gives the estimated consumption in *tonnes*, of each type of fertilizer.

The idea was dropped for the time being, as the Senate repeatedly rejected it along with the other replacement taxes. In March of the following year Péret, then Finance Minister following Doumer, recast the proposal and submitted it to the Chamber, along with replacement taxes on coffee and tea, as an inducement for the deputies to vote the increased rate on the turnover tax proper which he was demanding. He copied the Chamber's original proposal in returning to an *ad valorem* basis, but doubled the rate first suggested, putting it at 4 per cent. Later he proposed 3.5 per cent instead, ostensibly to bring the rate into line with the lowering of the increase he was asking for the turnover tax.[120]

The rate finally adopted was, if anything, a lightening of the burden on fertilizers, for when the tax was originally proposed, the President of the Syndicat Général du Commerce des Produits Chimiques et des Engrais approved of a 2.6 per cent rate.[121] Since then the turnover tax has been increased 54 per cent, yet the fertilizer-tax rate is only 35 per cent higher than the original proposal.

Coffee and Tea. — Since coffee and tea are not produced within France, a replacement tax on these commodities is very simple, administratively — merely an import tax. Most of the discussion has been concerned with the proper rates to be levied and the treatment to be accorded colonial producers.

As proposed by the Chamber Finance Committee in 1924, the replacement tax on coffee was set at 73 francs per quintal, on tea at 62 francs per quintal. Figuring coffee at 2,000 francs per quintal, and tea at 2,200 francs per quintal, the Committee estimated that the current turnover tax burden cumulated to 78 francs per quintal for coffee and 86 francs per quintal for tea, assuming the tax was levied on each commodity three times.[122] Hence the new taxes would somewhat reduce the burden.[123] The Chamber adopted the

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[120] *D.P.*, 1926, *Ch.*, *S.O.*, p. 487 (No. 2791).

[121] *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 24, 1925.

[122] *D.P.*, 1924, *Ch.*, *S.O.*, p. 2068 (No. 537).

[123] But other estimates made a few months later used a base of 1,200 francs per quintal of coffee, which would make the specific tax equal to a 6 per cent *ad valorem* rate, instead of 3.65 per cent as in the Chamber's calculations. *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 24, 1925, in which

Committee's rates, which were equivalent to 3.65 per cent on coffee and only 2.82 per cent on tea. These were indeed low compared with the 8 and 7 per cent rates adopted when the taxes were finally passed the following year.

Protest was made in the Chamber, however, that the replacement taxes on coffee, tea, and cacao would weigh heavily on the colonial producers who competed with foreign countries in supplying France with these foodstuffs. The incidence of the tax, for the purposes of this argument, was assumed to rest on the producers, not the consumers, for reasons not clearly stated. Deputy Angoulvant declared the natives growing cacao would see the price of their product reduced from the current quotations of 2 or 3 to 1.4 or 2.4 francs per kilogram. Deputy Candace stated that France imported 120,000 *tonnes* of coffee per year, largely from Brazil and Haiti, and 40,000 *tonnes* of cacao per year. He asked support for Angoulvant's proposal that the replacement taxes be reduced by one-half for products imported from French colonies, protectorates, and mandates. The reporter-general of the Finance Committee opposed the proposition, on the ground that it would be a violation of commercial conventions with foreign countries, and Angoulvant withdrew his amendment.[124]

The whole discussion went for nothing, however, at the time, as the Senate repeatedly rejected the taxes. Not until March, 1926, was another serious effort made to push the matter. At that time Péret, newly appointed Finance Minister, took up the idea and suggested replacement taxes of 9 per cent for coffee, and 8 per cent for tea, which rates he later lowered to 8 and 7 per cent respectively. The Chamber Committee accepted these proposals willingly, without amendment.[125]

The coffee and tea taxes have worked well, as they have had the support both of the dealers in those commodities[126] and of the

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an *ad valorem* rate of 5 per cent is advocated on coffee. Likewise the price of tea was here quoted at 1,500 francs per quintal, making the proposed tax of 62 francs equivalent to 4.13 per cent, instead of 2.82 per cent.

[124] *Déb.*, 1925, *Ch.*, *S.O.*, p. 3163 (July 2).

[125] *D.P.*, 1926, *Ch.*, *S.O.*, p. 487 (No. 2791).

[126] Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 24, 1925.

Administration.[127] The taxes are nothing new, in reality, being in effect additions to the already existing regular customs duties and the special internal-consumption taxes on coffee and tea collected upon importation. Their chief disadvantage is the discrimination they make necessary in wholesalers' and retailers' bookkeeping between sales of these commodities, exempt, and sales of other commodities still subject to the turnover tax. The rates too, may be somewhat low considering the burden borne by the commodities under the turnover tax,[128] following the rate readjustments of August, 1926.

TABLE 13

TURNOVER TAX RECOVERED FROM DEALERS IN BREAD CEREALS AND THE FLOUR EXTRACTED THEREFROM; 1923 ONLY[a]

(In francs)

From All Dealers

Collected by	Tax on Sales	Tax on Commissions	Total
Registration Administration....	35,241,747	725,590	35,967,337
Indirect-Tax Administration....	41,940,881	1,697,456	43,638,337
Total........	77,182,628	2,423,046	79,605,674

From Those Who in 1924 Either Had No Right to Pay under the *Forfait* System or Refused the Privilege

	Total Tax	Per Cent of Totals Above
Registration Administration......	23,323,068	64.85
Indirect-Tax Administration......	27,057,731	62.00
Total......................	50,380,799	63.29

[a] Data supplied by Finance Ministry.

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[127] Statement at Finance Ministry to writer.

[128] *Cf.* Allix and Lecerclé, *op. cit.*, p. 346, claiming the rates should be 8 and 9 per cent.

Flour. — The replacement tax on flour was made almost solely for administrative reasons, to check the decline in yield that was developing under the turnover tax.[129]

Legal evasion of the turnover tax became very noticeable in the milling trade, millers assuming the rôle of commission merchants or *façonniers*, and taking no title to the grain they milled.[130] The Government therefore asked that a special replacement tax of 2 per cent be levied (1.9 to the State, 0.1 to the local-finances fund) in place of the turnover tax on flour, semolina, and refuse grain resulting from the milling of grain; the tax to be levied on the value of the flour, etc., produced by or received by, millers, and a corresponding tax to be levied upon importation of flour, etc., not passing through millers' hands.[131] As certain grains destined for bread flour and bread itself are exempt from the turnover tax under previous laws, the new milling tax is not a replacement tax in as wide a sense as are the taxes on coal, meat, etc.

In point of yield the tax ranks approximately with that on sugar (Table 23, p. 345). Table 13 indicates that the situation has been much the same as with the animal and meat trade, as to division of yield between commissions and sales, and per cent of total receipts coming from larger taxpayers.

Other Commodities. — Replacement taxes which have not yet passed both houses, but which were voted by the Chamber in 1925, are those on cacao (61 francs per quintal on sales by importers),[132] chocolate, rice (6 francs per quintal on imports), and denatured alcohol (4 francs per hectolitre on purchases from the Government made by denaturers).[133]

Adoption of these measures, three of them on articles wholly imported and the fourth on a commodity already regulated by the State, would provide no true test of the feasibility of wide expansion of the replacement-tax experiment. More ambitious projects, concerning the steel, iron, chemical, and paper industries are being considered at present,[134] but unless Parliament, consciously or unconsciously, is ready to scrap the requirements outlined above [135] which stand in the way of extensive replacement, there is no chance of their adoption. If they are passed it will be a strong indication that distaste for the turnover tax on the part of small merchants is surpassed only by their political power.[136]

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[129] As this book goes to press, word is received that this replacement tax has been abolished. *Cf. infra*, p. 357.

[130] *Cf. supra*, p. 54.

[131] A similar tax had been proposed seven years before, by Deputy de Tinguy du Pouët and others: *D.P.*, 1922, *Ch.*, *S.O.*, p. 819 (No. 4405); and by the Chamber Finance Committee in 1924: *D.P.*, 1924, *Ch.*, *S.O.*, p. 2068 (No. 537).

[132] For protests against this on behalf of French colonies, *cf. Déb.*, 1925, *Ch.*, *S.O.*, p. 1478 (Feb. 28).

[133] *Cf. ibid.*, p. 1482 (Feb. 28).

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[134] But the 1930 budget *projet* contains no provisions for extending "production" taxes, and states that no report has yet been received from the commissions studying the steel and iron and chemical industries.

[135] *Cf. supra*, pp. 126–129.

[136] *Cf.* Mascarelli-Giaume, *op. cit.*, pp. 133–154, for unfavorable analysis of possibilities of applying replacement taxes to the metallurgical and textile industries. He reports the Comité Central de la Laine and the Syndicat Général de l'Industrie Cotonnière as opposed to the "adventure." The *Bulletin* of the Union des Syndicats Patronaux des Industries Textiles de France (May, 1924, p. 293; Nov., 1924, p. 117) has expressed opposition to replacement taxes.

CHAPTER VI

SPECIAL PROBLEMS OF THE LUXURY TAXES

No part of the turnover tax system has received such abuse and withstood it so successfully as the luxury taxes on certain retail sales (now 12 per cent rate), and on gross receipts of certain hotels, restaurants, etc. (now 4 and 13 per cent). Records of parliamentary debates and resolutions passed by business groups have often shown unsparing denunciation of the sumptuary principle thus expressed, but the majority of the votes in Parliament have always, with one exception, been behind the taxes. The one exception was in 1919 when the Chamber voted to abolish the luxury taxes, but failed to persuade the Senate to concur.

These taxes antedate the turnover tax proper; they were levied as part of the payments-tax system by the law of December 31, 1917.[1] No sooner had they been passed than protests came from business circles,[2] forerunners of the long series of denunciations of the tax that were to appear during the coming decade.

During the 1920 debates, the proponents of the luxury taxes had to fight two sets of opponents — the Socialists, who opposed the taxes partly for obstructionist reasons, partly for fear of their effect on the poor consumers,[3] and the commercial interests involved. On one occasion both François-Marsal (the Finance Minister) and Bokanowski threatened the Right with taxes on capital and "acquired wealth" if the luxury taxes were not voted.[4] The fact that the Chamber had already consented to increases in direct taxes and to the imposition of other indirect taxes was used as a lever to swing the luxury taxes through, on the ground that it was "morally impossible" to refuse to tax luxuries, when savings and the necessities of life were being asked to bear part of the burden.[5] Nevertheless the retention of the luxury taxes appeared doubtful at times; 105 deputies signed a proposal to abolish them,[6] and long and bitter debates checked their passage. In the end opposition was overcome, and although since that time proposals for abolition of the luxury taxes (entirely apart from any question of scrapping the turnover tax) have appeared,[7] the luxury taxes still stand firm as an integral part of the turnover-tax system.[8] Some of the comments as to the unworkability of the luxury taxes, made when they were first levied [9] — and justifiably made, in view of the loud and continuous criticism levelled at them — have happily been proven too pessimistic. At least the luxury taxes seem to have kept more or less close step with the ordinary turnover tax in improvement or degeneration. Table 24 (p. 346) shows that the total domestic luxury-tax collections range, for 1921–1925, between 13.81 and 16.7 per cent of the total turnover-tax collections, the higher ratio being shown in the latest year. In 1926 the ratio dropped to 13.43 per cent, and in 1927 to 10.44 per cent, but this may be partly accounted for by the greater proportional increase in the ordinary turnover-tax rates.[10] In 1928 and the first half of 1929 the ratio was 10.9 and 10.92.

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[1] They followed, in the main, the suggestions advanced by René Favareille, in "Un Impôt sur les dépenses somptuaires," *Revue Politique et Parlementaire*, Vol. 90, pp. 192–212 (Feb., 1917).

[2] *Cf. supra*, pp. 15–17.

[3] *Cf. infra*, p. 167.

[4] *Débats*, 1920, *Chambre*, *Session Ordinaire*, p. 1302 (April 24).

Separate discussion must be given to the two sections of the luxury tax structure: the tax on luxury articles sold at retail, and the tax on gross receipts of luxury hotels, restaurants, etc.

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[5] *Débats*, 1920, *Chambre*, *Session Ordinaire*, p. 1303 (April 24).

[6] *Ibid.*, p. 1280 (April 23).

[7] *Cf.*, *e.g.*, *Documents Parlementaires*, 1924, *Chambre*, *Session Extraordinaire*, pp. 356, 357 (No. 935); *Journal des Contributions Indirectes*, July 15, 1928, p. 384.

[8] Although as this book goes to press, the Government has proposed a reduction in the rate of the luxury tax on retail sales.

[9] *Cf.* Robert Murray Haig, *The Public Finances of Post-War France*, pp. 38, 39. Sir Josiah Stamp said in 1921: "Of course a tax may be so inherently difficult that, outside these conditions [chiefly, administrative efficiency, and willingness of people to submit to strict control] it would be unworkable anywhere. It seems possible, in the light of French experience, that the luxury tax is in this class." *The Fundamental Principles of Taxation*, p. 102.

[10] For some qualifications as to the use of these percentages for 1926 and following years, *cf.* Table 24 (p. 346).

RETAIL SALES OF LUXURY ARTICLES

Since the story of the luxury tax on retail sales is largely one of objections that have failed, it is permissible to cast its analysis in the form of its disadvantages. These objections are of two main classes: those which strike at the tax fundamentally and which will exist as long as the tax remains; and those which might be removed by changes which would not destroy the tax itself.

Fundamental Objections: Economic Effects. — Prominent in the discussions shortly before and after 1920 was the emphatically expressed fear that the tax would cripple the luxury trades by restricting demand and throwing business to foreign establishments. A large section of Parisian industry and commerce, it was prophesied, would be destroyed.[11]

> This tax, [declared the Paris Chamber of Commerce in 1922] because of its excessively high rate, has permitted fraud to develop progressively, has made large numbers of workers in the luxury-articles industries change their professions, and has shifted, to the foreigner's benefit, the commercial market for many articles.[12]

The same fear was expressed by representatives of other sections. Instead of buying watches at Annecy, Evian, or Aix-les-Bains, declared Deputy Tapponier, purchasers were going across the border to Geneva.[13] Another deputy called attention to the fact that England had no such luxury tax; and such a levy should be "international," if it were to be used at all — it was too hard on any one nation.[14] Obviously these arguments were based on the supposition that the tax would be added to the price of the goods and so passed on to the consumers, or rather, to whatever consumers remained willing to bear this extra charge. The necessity for such attempts at shifting was shown by Deputy Leboucq in citing the case of a *grand couturier* in the Rue de la Paix who in 1919 made a profit of 512,000 francs on a turnover of 6,800,000 francs — a profit margin of only 7.5 per cent.[15] But the higher price, so the argument ran, would drive away trade.

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[11] Chambre de Commerce, Paris, *Bulletin*, 1918, p. 58.

[12] *Bulletin*, pp. 1051, 1052. Deputy Leboucq cited statements by representatives of clothing workers, deploring the effects of the luxury tax on retail sales. *Déb.*, 1920, *Ch.*, *S.O.*, p. 1282 (April 23).

[13] *Ibid.*, p. 1280.

[14] *Ibid.*, p. 1283.

Tardieu and others attempted to allay such fears by citing the exchange rates, which, they claimed, gave such an advantage to French merchants that the luxury buyer would still prefer to purchase in France rather than abroad. This contention was apparently based on a supposition that internal prices had lagged behind exchange fluctuations, but even were this true, the fact remained, as Leboucq pointed out, that the existence of the luxury tax was relatively a burden and as such disadvantageous to the merchants.[16]

No statistics are available to show whether or not the luxury tax has seriously checked the production of luxury articles. There seems to have been a tendency on the part of manufacturers to cheapen the quality of their products just enough to bring them below the luxury price limits and so escape the luxury rate.[17] Tailors, for instance, were said to be using poorer cloth than usual, so that their suits might be sold for less than the luxury price.[18]

Evasion. — Whatever may be said of the tax on luxury articles, it must be admitted to have called forth a vast amount of ingenuity and resourcefulness on the part of both merchants and consumers who have had no qualms about defrauding the Government of a tax they have resented. This tax, "an admirable school in fraud," [19] has been evaded in a variety of ways.

The retailer, for instance, would enter in his books and make out his bill "Two suits at 300 francs" instead of stating the sale truly as "One suit at 600 francs plus 10 per cent tax." Or he would enter one suit sold at 300 francs, plus 300 francs for various fictitious services rendered to the purchaser, which the tax agent would find difficult, if not impossible, to check. "We invoice separately each part of a dress," a *couturière* was quoted as saying.[20] For tailor-made goods, the seller would invoice the price of the cloth and the price of the tailoring separately.[21] Such devices were of use, of course, only as concerned articles which were declared to be *de luxe* because sold at or above a certain price.

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[15] *Loc. cit.*

[16] *Loc. cit.*

[17] *Cf.* complaint voiced by the Chamber Committee on Commerce and Industry, *D.P.*, 1925, *S.E.*, pp. 354, 355 (No. 2232).

[18] *Déb.*, 1925, *Ch.*, *S.O.*, p. 3157 (July 2).

[19] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1282 (April 23), Deputy Leboucq. *Cf.* also Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, July 1, 1924, p. 2.

[20] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1282 (April 23).

Another method has been to enter the sale as made for export (such sales being exempt), when in reality the sale was made to a domestic purchaser.[22] This may be done without actual fraud; a purchaser of expensive jewelry, for instance, would take delivery in Belgium.[23] Deputy Marcel-Hubert cited a 7-million franc sale of pearls where delivery was made in Geneva instead of Paris.[24]

Administrative inefficiency due largely to war-time conditions also contributed to the trouble in the early years of the tax. Even those who wished to pay the tax had difficulty in getting stamps from the Administration.[25]

As early as 1920 the Administration recognized one form of fraud that might lead to serious loss of revenue unless it were checked; therefore elaborate preventive measures were taken. Since only the turnover-tax rate (at present 2 per cent, as against the 12 per cent luxury rate) applies to sales of luxury articles when such sales are not made at retail or for consumption, it is obvious that a dishonest taxpayer might evade the luxury rates by false statements as to whom certain sales were made, unless the Administration could check up on him. With this in view, an early administrative ruling required anyone handling luxury articles and claiming exemption from the luxury rates to submit proof that his customers were indeed merchants who intended to resell the articles, and not ultimate consumers buying them at retail or for consumption. This aroused discontent at once. One wholesale dealer in luxury articles, trying to comply with the regulation, sent out blanks to be filled in, signed, and returned by his merchant customers, and although he inclosed a stamped envelope for return, his customers showed irritation, some of them inquiring ironically if he doubted their existence. Another wholesaler, with 4,000 customers, found this procedure cost him 2,500 francs, and when it is recalled that the original ruling required this to be done every year, the basis for complaint seems justified.[26] The Administration later relaxed the rigidity of this requirement.[27]

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[21] *Ibid.*, p. 943 (April 14).

[22] *D.P.*, 1924, *Ch.*, *S.O.*, p. 425 (No. 7207).

[23] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2459 (May 31). No explanation was offered as to how the purchaser could get the jewels back into France without paying the import tax corresponding to the domestic turnover tax. Smuggling would seem to be the only way.

[24] *Déb.*, 1920, *Ch.*, *S.O.*, p. 943 (April 14).

[25] *Ibid.*, p. 1314 (April 24), Deputy Varenne.

Despite all the efforts of the Administration, much of the tax on luxury articles is apparently still evaded,[28] though the situation is probably not much worse than in the ordinary turnover tax.[29] A partial remedy has been found in levying the tax at the production rather than retail stage for perfumeries and automobiles. The perfumery tax especially has been a great success,[30] and suggestions have been made for extending the system to lingerie, jewelry, fine leather goods, etc.[31]

Other Objections: Rate. — In a sense the rate is a fundamental objection, as the luxury character of the tax would disappear were the rate to be only slightly higher than the ordinary turnover-tax rate. There is a wide range of variation, nevertheless, in which the tax could still be considered a sumptuary one. With the ordinary rate set at 1.1 per cent by the 1920 law, a 5 per cent rate could certainly be regarded as a luxury tax. The rate adopted, however, was the same as under the "payments-taxes" system — 10 per cent. Much of the opposition from business interests came because the rate was so high; the Paris Chamber of Commerce conceded that the tax would be acceptable if only it had a "light rate" — how light, it did not say.[32]

Finance Minister Klotz proposed in 1920 that two rates be fixed, one of 5 per cent on semi-luxury goods, and one of 10 per cent on luxury goods.[33] This would have led to more difficulties in administration, and it is doubtful if it would have increased the total yield by offering less temptation to evasion. By 1920 — and this point holds even more strongly now — methods and habits of evasion had been fairly well established. Certainly it seems unlikely that a halving of the luxury rate for all articles [34] would increase the yield of the tax. In any case the exact rate set must always be more or less an arbitrary matter. That the 10 per cent rate was close to the upper limit from Parliament's point of view can be seen by the narrowing spread between this and the ordinary turnover-tax rate since 1920. At that time the luxury rate was 9.1 times as great as the ordinary rate; at present it is only 6 times as great. When the turnover-tax rate was raised in 1926, and even the luxury tax on hotels, restaurants, etc., was increased slightly, the tax on luxury articles was left unchanged.

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[26] Chambre de Commerce, Paris, *Bulletin*, 1920, p. 1351.

[27] For details of this ruling and its subsequent relaxation, *cf. infra*, p. 269.

[28] *Cf. J.C.I.*, April 8, 1929, p. 177, and Oct. 8, 1925, p. 507, citing the *Voeu du Congrès Commercial de Nancy*, which gives the "enormous amount of fraud" as one reason why the luxury tax should be levied at the wholesale or the production stage.

[29] [30] Statement at Finance Ministry to writer.

[31] *J.C.I.*, July 22, 1922, p. 383. For arguments *pro* and *con*, *cf.* chapter on replacement taxes, *supra*, pp. 126–134.

[32] *Bulletin*, 1918, p. 419.

[33] *D.P.*, 1920, *Ch.*, *S.O.*, p. 44 (No. 166).

In the spring of 1929 the Government was forced to promise a lowering of the rate (or else a raising of the luxury standard) [35] to stave off demands for repeal.[36]

Standard of Luxury. — The fact that the luxury rate is so high makes all-important the standard of luxury set. The standard is twofold: certain goods, no matter what their retail sales price, are considered *de luxe* because of their nature; others become luxury goods only when sold at retail above a certain price.[37]

While not agreeing with the Assembly of Presidents of the Chambers of Commerce, who declared in 1924 that the luxury line was purely arbitrary and impossible to determine objectively,[38] one can readily see the chances for confusion, especially where luxury is made a function of price. If one pays more than the ordinary price in order to get a suit of clothes that will last longer than the average, is he indulging in luxury expenditure, or is he, rather, economizing?

The line drawn on the basis of retail selling price has been especially troublesome in time of inflation. This line is fixed, and can be changed, by administrative decree, under the 1920 law; but the Administration has been either too busy or too eager for revenue to keep the changes up to the rising price level, with the result that a luxury price test which seemed fair enough in 1923, for instance, became decidedly unfair in 1925 and subjected non-luxury goods to luxury tax rates.[39]

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[34] As was advocated in 1924 by Deputy Brousse, *D.P.*, 1924, *Ch.*, *S.O.*, p. 425 (No. 7207).

[35] *Cf. infra*, pp. 358, 359.

[36] *Cf. J.C.I.*, April 8, 1929, p. 177. The 1930 budget *projet* proposes lowering the rate to 10 per cent on those articles classed as luxuries because of their nature, and to 6 per cent on those classed as luxuries when selling above a certain price. Thus a class of semi-luxury articles may be introduced at the same time the rates are lowered.

[37] *Cf. infra*, p. 267. In 1917 the Government had wanted a third test, that of use, so that no articles used in commerce, agriculture, or industry would be subject to luxury rates, but the special commission appointed to draw up a list of articles rejected this criterion on grounds of impracticability.

[38] Chambre de Commerce, Paris, *Bulletin*, 1924, p. 1496.

The same trouble was even more noticeable prior to the 1920 law; Deputy Leboucq complained in April, 1920, that shoes were then classed (by the 1917 law) as luxury articles if sold at over 40 francs, whereas inflation had raised the price level so that ordinary shoes were then selling for at least 60 francs.[40]

The Administration was willing that such injustices be avoided by having the luxury price line set by decree rather than by law (which change was made in 1920), so that alterations might be more readily made as the price level shifted. Also, it was doubtless glad to have a freer hand in fixing the limits. Thus when the luxury tax was under heavy attack in the Chamber in April, 1920, promises were made that the Administration would be liberal in fixing the luxury line; but after the tax had been passed it must have been somewhat of a shock to trusting merchants to observe the limits actually fixed by the decree of June 26, 1920. Dumont, for instance, had promised that shoes would be considered luxuries only if sold for more than 150 francs at retail [41] (about $9 at the current exchange rate),[42] whereas the decree in June set the line at 100 francs. The following tabulation shows in the first two columns the price limits which François-Marsal in April, 1920, said had been drawn up tentatively by his officials,[43] and the last two columns show the limits actually fixed by the June decree of the same year:

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[39] *Cf.* complaint of Paris Chamber of Commerce (*Bulletin*, 1925, pp. 253, 254), noting that although the wholesale price level had risen from 433 in September, 1923, to 525 in January, 1925, no change had been made in the luxury price standards. These price level figures, although not the same as those used in Table 1, p. 56, nevertheless indicate about the same proportionate increase. *Cf.* also *Bulletin*, 1926, p. 1571, and *D.P.*, 1925, *Ch.*, *S.E.*, pp. 311 (No. 2189), 354, 355 (No. 2232).

[40] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1282 (April 23).

[41] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1297 (April 24).

[42] From J. H. Rogers, *The Process of Inflation in France*, p. 59. April, 1920, exchange rate.

[43] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1300 (April 24).

	Francs	*Dollars*[44]	*Francs*	*Dollars*[44]
Lampshades	50	(4.15)	40 and 20	(3.32, 1.66)
Cameras	300	(24.88)	150	(12.44)
Religious ornaments	50	(4.15)	30	(2.49)
Picture frames	200	(16.58)	50	(4.15)
Men's hats	100	(8.29)	60	(4.98)
Women's hats	200	(16.58)	80	(6.63)
Corsets	150	(12.44)	80	(6.63)
Pajamas	300	(24.88)	50	(4.15)

True, some of the deputies, among them Dumont, protested at the time that the tentative list was too liberal, and François-Marsal indicated there would be some reductions; and by June the price level had declined by 5 or 10 per cent from the level of a few months earlier. But it still appears that the Government made false promises in order to have the tax retained; had the true levels been revealed at the time, the opposition would undoubtedly have been much stronger.

The actual burden of the luxury levels thus fixed depended of course upon the prevailing price levels for moderate quality as against luxury quality goods of each description. But that the levels were not fixed unduly low, even in the June decree, seems likely as far as clothing is concerned. Thus a dispatch to the London *Times* in March, 1920,[45] cited a price of 150 francs for a good lounge suit, whereas the June decree fixed the luxury line at 600 francs. The spread is great enough to counterbalance the fact that the 150-franc price was cited to show how cheaply a suit might be purchased when produced by an association of tailors receiving a subsidy from the Ministry of Labor.

At present (April, 1929), the luxury lines in force are those drawn by the decree of November 19, 1926. Prices have altered greatly for many articles since that time, so that readjustment is apparently badly needed. The Government has promised to consider raising the luxury price limits to lighten the burden of the tax.[46]

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[44] Using exchange rate for June, 1920, as given in J. H. Rogers, *op. cit.*, p. 59.

[45] Issue of March 15.

[46] *Cf. J.C.I.*, April 8, 1929, p. 177.

Tax Base. — As has been noted,[47] certain articles are subject to the luxury tax upon sale at retail or for consumption only because their sales price per unit surpasses a certain amount. But once this occurs, the luxury rate is levied upon the total sales price, not merely on that part of the sales price above the dividing line. This rule brought forth protests soon after the tax was first levied by the 1917 law.[48]

A proposal was made in the Chamber in April, 1920, to tax only that part of the receipts above the luxury price line. This proposal merely reproduced the original plan of the Government in 1917, abandoned at the behest of the Chamber in favor of the more drastic system.[49] Finance Minister François-Marsal refused to consider this, using as a pretext the argument that it would complicate the merchants' bookkeeping.[50] His objection was discounted by Deputy Prevet, who declared the merchants would gladly accept the extra bookkeeping necessary, in exchange for such tax relief. But the Chamber voted, 385 to 140, to uphold the Finance Minister.

The peculiar effect of this provision is to make a certain price range for each luxury article absolutely useless for the merchant. A pair of shoes selling at 100 francs in July, 1920, for instance, was taxed at only 1.1 per cent; the net yield to the merchant was therefore 98.9 francs. But if the shoes had been priced at 101 francs the merchant would have owed 10.1 francs to the Treasury, getting only 90.9 francs net. Not until the selling price was raised to 109.86 francs would the merchant receive as much, net, as he would by pricing the shoes at 100 francs. Therefore it was useless for him to price the shoes anywhere between 100 and 109.86 francs, no matter what their quality or cost. By refined marginal-utility theory, the tax would therefore make unavailable a certain range of goods for which there might be a real demand, but as such refinements probably do not apply to luxury dealings, the practical effect has no doubt been small.

The Legal Taxpayer. — The luxury tax on retail sales (as well as that on hotels, restaurants, etc.) was, as noted above, inaugurated in 1918, as part of the "payments-taxes" system, and when the turnover tax was adopted in 1920, was incorporated into the latter with but slight changes.[51] One of the changes concerned legal responsibility for the tax. Before 1920 it was a tax on the purchaser, collected at first by stamps, later without them, and the merchants, acting as unofficial tax collectors, at first quoted their prices "ex-tax," billing the tax item separately. Later they incorporated it into the price quoted, and this method was given a definite status by the 1920 law, which levied the luxury tax not on the purchaser, but on the seller. Practically, of course, this change should make little difference; but the psychology of tax shifting is brought out in a peculiar way by the comment, for instance, of the tax officials' organ, *Le Journal des Contributions Indirectes*,[52] which regretted the change, on the basis that the merchant would now simply calculate the total tax (both *de luxe* and ordinary turnover tax) due by him and, counting this sum as an addition to overhead expenses (*frais généraux*), distribute it evenly over all goods sold, luxury and non-luxury. This, thought the *Journal*, would result in making the non-luxury goods bear part of the luxury tax, thus defeating, in a measure, the intent of Parliament. In the same vein François-Marsal, then Finance Minister (1920), told the Chamber that some of his commercial friends in Paris had told him how they could more readily recoup the tax from consumers, once certain restrictions (*formalités*) were abolished, and he asked that the tax be levied directly on the merchant instead of on the consumer, so that the former might distribute it over prices as he wished.[53] The Socialists opposed the luxury tax largely on the supposition that it could be distributed over sales of both luxury and non-luxury articles, and hence was in reality a burden on the poor.[54] The same result might be due to another cause, thought Deputy Paisant: the luxury price line would tend to draw up toward it (but not past it) all second-rate goods, for any price below this line would be considered a reasonable, just price, because the Government officially declared it to be not a luxury price.[55] French consumers were indeed looked upon as an easily duped lot, and French merchants were given little credit for any conception of cost accounting.

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[47] *Cf. supra*, p. 163.

[48] Chambre de Commerce, Paris, *Bulletin*, 1918, p. 490.

[49] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1314 (April 24); *cf.* also Dalloz, *Répertoire Pratique*, *année* 1918, *4ème partie*, p. 27.

[50] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1298 (April 24).

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[51] For full details, *cf. infra*, p. 265 *et seq.*

[52] July 15, 1920, p. 358.

[53] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1286 (April 23).

[54] *Ibid.*, p. 1288 (April 23).

[55] *Ibid.*, p. 1301 (April 24).

One other effect did result from changing the legal responsibility for the tax. Heretofore the purchaser (through the merchant) had owed the fisc 10 per cent of the sales price, quoted ex-tax. Thus an article selling for 100 francs without any tax cost the purchaser 110 francs under the former procedure (1918–1920) — supposing the merchant tried to recoup the entire tax from the consumer. By the new rules the merchant owed the tax on his total receipts from the sale of luxury articles; hence if he set the same price at 110 francs he would pay a tax of 11 francs, and would be one franc out. His price would have to be fixed at 111.11 francs if he wished to receive for his article 100 francs net after tax.[56] Thus the tax rate was in effect increased from 10 per cent to 11.11 per cent of the sales price of the article before tax, under the new rules.

Replacement Taxes. — If the objections noted above have not been forceful enough to cause abandonment of the luxury tax on retail sales, they have at least encouraged transformation of the levy. When the luxury tax was retained in 1920, hope was expressed that its annoyances could be greatly reduced by levying it at the production, rather than the retail stage; the Administration was quoted as being eager to accept all suggestions possible along that line.[57] Doubtless the Administration was the more willing because of the difficulty, noted above, of checking fraudulent evasion at the retail stage.

This idea has been adopted in two important instances: wines and liqueurs, and automobiles. The luxury tax on wines and liqueurs soon became an integral part of the *contributions indirectes* system of liquor taxes, and it is not treated in this book. Automobiles, however, offer an instructive example of the difficulty of a refined luxury tax. The struggles of Parliament to repress fraud, even after the tax had been moved back to be assessed upon sales by manufacturers rather than retail sales, are detailed elsewhere [58] in so far as they took final shape in law. Most of the difficulty has arisen from the attempt to discriminate between passenger cars and commercial vehicles, the latter forming an important part of the total number (Table 14). Had some deputies had their way, the trouble might have been even greater, for in 1922 a bill [59] was submitted to exempt entirely from the luxury rates all moderate-priced passenger cars, such as those used by traveling commission merchants and brokers, country doctors, etc., the exemption line to be drawn at 15,000 francs ($1,355 at the current exchange rate).[60]

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[56] This point was raised by Deputy Vidal, *ibid.*, p. 1306 (April 24). It applies to the hotels tax also. *Cf. infra*, p. 277, note 62.

[57] *D.P.*, 1920, *Ch.*, *S.O.*, p. 214 (No. 589).

[58] *Cf. infra*, pp. 270–275.

Two other minor instances of levying the luxury tax at the production stage may be found: perfumery and patent medicines.[61]

This method of reducing the administrative difficulties of the tax does not hold much hope for the future, especially in so far as "luxury" is a function of the retail selling price. An even stronger objection is the fact that most luxury articles are not manufactured in such concentration, by large firms, as to make the task of the collectors appreciably more easy than under the present system. The extremely high rate, perhaps 20 or 30 per cent, that would have to be levied to equal the 12 per cent rate on retail value would be an added incentive to fraud, especially as it might prove a real financial

TABLE 14

AUTOMOBILE MANUFACTURERS SUBJECT TO TURNOVER TAX IN 1924 [a]

	Turnover Taxed	Number Taxed	Average Turnover Taxed
At 1 or 1.2 per cent rates	1,353,212,922 frs.	?	?
At 10 or 12 per cent rates	1,497,273,206	?	?
Total................	2,850,486,128 frs.[b]	275	10,365,404 frs.

[a] *D.P.*, 1924, *Ch.*, *S.O.*, p. 2067 (No. 537). The low rates applied to commercial vehicles.

[b] It is of interest to note that the firm of Citroën reported a gross income of 686 million francs for 1924, nearly one quarter of the total given above. *Économiste Européen*, Dec. 2, 1927, p. 360.

[59] *D.P.*, 1922, *Ch.*, *S.O.*, p. 683 (No. 4323).

[60] J. H. Rogers, *op. cit.*, p. 59. Rate for May, 1922.

[61] *Cf. infra*, p. 261.

burden on the producer (even assuming he could shift the whole tax) because of temporary advances of funds occasionally necessary.

TAX ON HOTELS AND RESTAURANTS

On the whole, the luxury tax on hotels and restaurants has probably been less unpopular than the similar tax on retail sales of luxury articles. But in both cases the special interests of the parties involved have been brought to the fore in emphatic language.[62] There have been fewer points of attack in the hotel tax, although these points are vital.

As with the luxury tax on retail sales, the fundamental objection has been urged that a luxury levy on hotels and restaurants has serious economic effects.

Fear was expressed that it drove foreign tourists from France, and checked improvements by hotels which wished to take no chance on being considered luxury establishments. The Chamber Finance Committee thought the depreciating exchange was sufficient guarantee that the tax would not check the tourist trade,[63] but representatives of the hotel interests laid down a heavy barrage in the Chamber when the tax came up for discussion in 1920, to be incorporated in the new turnover-tax system. They declared it foolish to "cripple" the French hotel business at the very time Switzerland was granting aid to its hotels, and, not without basis,[64] denounced it as a "tax on cleanliness."[65] Deputy Leboucq cited Dumont (then reporter-general of the Finance Committee) as having said that 40,000 hotel rooms in France needed renovating (installation of running water, electricity, etc.), and declared the hotels should not be threatened with the luxury tax if they undertook these improvements.[66]

Standard of Luxury. — Setting the standard of luxury for the hotel and restaurant tax is quite a different problem from that of the retail tax, and, if anything, more difficult. An establishment pays a luxury rate on its gross receipts if, as a whole, it is judged "luxurious." Furthermore, there are two luxury rates (now 4 and 13 per cent) for different grades of luxury.

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[62] *Cf. D.P.*, 1920, *Ch.*, *S.E.*, p. 4 (No. 1534), for an example of an attack on the hotels tax.

[63] *D.P.*, 1920, *Ch.*, *S.O.*, p. 214 (No. 589).

[64] *Cf. infra*, p. 173.

[65] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1280 (April 23).

[66] *Ibid.*, p. 1283 (April 23).

How can the various hotels, restaurants, etc., be compared fairly, so that one is subject to only the ordinary turnover-tax rate, another to the intermediate 4 per cent rate and a third to the 13 per cent rate? The Paris Chamber of Commerce declared that such discrimination was "regarded as inadmissible by all those who know the jealousies and the rivalries existing in the provinces among *commerçants* of the same region." [67] Inadmissible or not, the Government has succeeded in establishing some kind of classification; indeed, exactly the same problem was faced by local authorities before this time, in levying local "cure taxes" at fashionable watering-places.[68] Admittedly, however, the difficulties involved here furnish the biggest administrative objection against the tax.

The solution adopted has been the creation of official commissions in each département, with a superior commission of appeal sitting at Paris. Before 1920 these commissions were in reality under the control of the taxpayers, whose representatives thereon outnumbered the Administration's delegates. Klotz proposed in 1920 that the Administration alone be represented on the département commissions, allowing the taxpayers' representatives a majority voice on the appeal commission in Paris,[69] but the Chamber thought an even split on both commissions better, with the Government having the deciding vote in the first instance.[70] The final result in the 1920 law was a compromise along lines worked out by the Senate, the Administration controlling the département commissions, the taxpayers, the commission of appeal. It was undoubtedly a wise move from the Government's point of view to remove the département commissions from the taxpayers' control.[71]

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[67] *Bulletin*, 1920, p. 156.

[68] Dénais Report, cited in Dalloz, *op. cit.*, 1918, *4ème partie*, p. 25.

[69] *D.P.*, 1920, *Ch.*, *S.O.*, p. 44 (No. 166).

[70] *Ibid.*, p. 1657 (No. 1032). *Cf. Déb.*, 1920, *Ch.*, *S.O.*, p. 1311 (April 24). For details as to the members of the commissions, *cf. infra*, p. 275.

[71] *Cf.* Table 15, p. 175, and comment, *infra*, p. 174. Proposals to return to the former system have been made from time to time, but have not been adopted. *Cf. D.P.*, 1921, *Ch.*, *S.O.*, p. 1145 (No. 2392); *D.P.*, 1922, *Sénat*, *S.E.*, p. 50 (No. 624); *D.P.*, 1924, *Sénat*, *S.O.*, p. 20 (No. 43).

For several years, both before and after 1920, the problems of classification gave much trouble. This arose from several causes.

Unequal treatment as among different cities was apparent. One of the deputies who was president of a département commission admitted it was a difficult task to avoid unjust discrimination; indeed, in some cases injustice had to be done, apparently. Thus certain hotels in Biarritz were not classed as *de luxe* because they were so inferior to others in the same city, yet they undoubtedly were of a higher type than hotels in other cities that were being classed *de luxe*.[72] Nice, with a population of 144,360,[73] had only twelve "first-class" establishments in 1922, while Aix-les-Bains, population 7,891,[74] had ten and Trouville-Deauville (5,869) [75] had five. Allowance must, of course, be made for the fact that the last two places are more markedly fashionable resorts, yet there is a question whether some of the hotels in Aix-le-Bains and Deauville might not be placed in the second class, were they in Nice.[76]

Local pride in some cases, coupled with the commission's feeling that it had to justify its existence, demanded that it be officially recognized that the town had at least one luxury hotel,[77] the assumption probably being that the hotel owner would not have to pay the price required for this civic glory, but could pass it on to his guests. Even hotel associations were said to have protested against the scarcity of luxury classifications,[78] though undercurrents of competition were probably stronger than civic pride in such instances.

Certainly the presence of business interests on the classifying commissions led to unfair discrimination, at times. "Through the pressure of commercial competition," certain establishments were classed as *de luxe* when they should not have been, and others undeservedly went free.[79]

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[72] *Déb.*, 1920, *Ch.*, *S.O.*, p. 1312 (April 24). *Cf.* also *D.P.*, 1922, *Sénat, S.E.*, p. 48 (No. 624).

[73] [74] [75] Population figures are for 1926. The last figure given is for Trouville only.

[76] *Cf. Juris-Classeur Fiscal*, Division N, No. 130.

[77] Dumont, reporter-general of Finance Committee, *D.P.*, 1920, *Ch.*, *S.O.*, p. 214 (No. 589).

[78] *D.P.*, 1922, *Sénat, S.E.*, p. 50 (No. 624).

[79] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1145 (No. 2392). In certain cases business representatives on the commissions have refused to vote at all, declaring themselves opposed to all classification on principle! *D.P.*, 1922, *Sénat, S.E.*, p. 50 (No. 624).

Peculiar ideas of luxury, coupled with the above influences, often led to classifying an establishment as *de luxe* merely on the grounds of its sanitary arrangements, such as the installation of bathtubs,[80] or because of location. Deputy Artaud said in 1920 that the classifications had been "ridiculous";

> I know a hotel in Toulouse [said Artaud] in which 75 per cent of the traveling salesmen pay 16 francs a day for board and lodging. This hotel pays the *de luxe* tax because its windows face the *Place Lafayette*, which is considered a luxury location! [81]

The appeal commission at Paris took action in many of these cases and excused from the luxury tax, before 1920, 379 hotels, restaurants, etc., which had been the victims of the département commissions' mistaken zeal or flat injustice.[82]

Many of these troubles can be traced to the predominance on the département commissions of the business interests, before 1920, but even since then the difficulty of setting definite standards by which establishments may be classified as luxurious has been marked. Varying concepts of luxury have been propounded from time to time, as the 1920 law, unlike the 1917 law,[83] did not state what standards should be employed.

The scale of prices charged has been one of the most important criteria,[84] and the Senate Finance Committee declared in 1922 that the classification should be done on this basis alone.[85] This proposal was not adopted, the Chamber Committee protesting that the yearly revision of price limits (included by the Senate as part of the plan) would be an enormous amount of work and trouble besides being insufficient, that the taxpayers would be induced to fake prices, and that taxpayers themselves had declared against the plan.[86]

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[80] *Déb.*, 1920, *Ch.*, *S.O.*, p. 943 (April 14); *cf.* also *D.P.*, 1920, *Ch.*, *S.O.*, p. 214 (No. 589).

[81] *Déb.*, 1920, *Ch.*, *S.O.*, p. 943 (April 14).

[82] *Ibid.*, p. 1285 (April 23).

[83] *Cf. infra*, p. 196.

[84] Finance Minister François-Marsal declared in 1920, that any hotel charging 100 francs a day, for instance (nearly $6 at the then rate of exchange; *cf.* J. H. Rogers, *op. cit.*, p. 59), would certainly be taxed at 10 per cent. *Déb.*, 1920, *Ch.*, *S.O.*, p. 1312 (April 24).

[85] *D.P.*, 1922, *Sénat*, *S.E.*, p. 48 (No. 624). This is also the opinion of *Juris-Classeur Fiscal*, Division N, No. 130.

Other criteria cited have been "marble decorations . . . employees in livery . . . immense rèception rooms which occupy half the building," [87] and that such as these have been in practice the guides of the commissions is shown by administrative instructions.[88] For a time after 1920, however, the commissions were apparently without any clear ideas as to the best procedure. They were accused of sometimes basing their decisions solely on the type of advertising done by the different hotels in newspapers.[89] This general confusion was reflected in the number of appeals taken to the superior commission at Paris, which was hard pressed in the early stages of its life.[90] Lately, however, it has not had so much to do as the criteria used have become more uniform and better understood.[91]

Further indication of the uncertainty of standards for classification is furnished by the data in Table 15, which show the wide variation from year to year in the number of first-class hotels, restaurants, etc., in any one département. It is difficult to believe that actual changes in local business conditions, tourist traffic, etc., entirely explain the up-and-down movements of the number of establishments in, for instance, the départements of Seine-Inférieure and Savoie, the tremendous growth over 1920 shown in Ille-et-Vilaine, Charente-Inférieure, and Pyrénées (Basses-), or the sharp decline in Loire. At the least, the table shows how even in 1921 the total number of first-class classifications increased over 1920 when the Government had just assumed control of the département commissions.

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[86] *D.P.*, 1923, *Ch.*, *S.O.*, p. 1070 (No. 5913). But this standard is apparently now being used to a greater extent than formerly. The 1930 budget *projet*, which proposes lowering the luxury tax on retail sales, states that similar action is not necessary for the hotels, etc., tax, because "the raising of the price line by the superior commission . . . in March [1929] . . . is such that the burden of these establishments does not need to be decreased." *Bulletin de Statistique*, May, 1929, p. 961.

[87] Dumont, *Déb.*, 1920, *Ch.*, S.O., p. 1305 (April 24).

[88] *Cf. infra*, p. 276.

[89] *Déb.*, 1921, *Ch.*, *S.O.*, p. 2499 (June 2), Deputy Tapponier.

[90] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1497 (No. 2660). Also statements at Finance Ministry to writer.

[91] Statements at Finance Ministry to writer.

TABLE 15

HOTELS, RESTAURANTS, ETC., CLASSIFIED AS "FIRST-CLASS" LUXURY ESTABLISHMENTS, BY DÉPARTEMENTS, 1920, 1921, 1923, 1926[a]

Département	1920	1921	1923	1926	Département	1920	1921	1923	1926
Seine	289	322	353	525	Seine-et-Marne	4	4	14	17
Alpes-Maritimes	51	412	479	690	Gironde	3	3	2	8
Rhône	39	36	24	22	Loire-Inférieure	3	50	84	139
Seine-Inférieure	36	56	60	46	Orne	3	3	3	3
Nord	29	33	22	22	Pyrénées-Orientales	3	3	2	2
Pas-de-Calais	29	33	75	61	Ain	2	2	1	1
Loire	24	25	4	1	Eure	2	2	2	1
Bouches-du-Rhône	21	20	22	9	Nièvre	2	24	1	2
Pyrénées (Basses-)	21	113	148	524	Aude	1	0	0	1
Calvados	20	20	171	168	Aveyron	1	1	0	0
Savoie	20	30	20	11	Cantal	1	1	1	0
Savoie (Haute-)	14	33	33	34	Charente-Inférieure	1	38	147	124
Puy-de-Dôme	12	11	3	1	Indre-et-Loire	1	1	1	1
Seine-et-Oise	12	12	219	332	Isère	1	1	1	0
Var	12	15	19	21	Lot	1	1	0	0
Allier	9	9	7	6	Maine-et-Loire	1	1	1	1
Ille-et-Vilaine	9	194	267	354	Manche	1	0	1	2
Garonne (Haute-)	7	7	14	6	Ardèche	0	0	0	107
Côtes-du-Nord	6	15	18	26	Loiret	0	0	0	6
Saône-et-Loire	6	9	8	2	Meurthe-et-Moselle	0	0	1	1
Vosges	5	6	4	5	Hérault	0	1	0	0
Oise	4	4	4	11	Rhin (Bas-)	x	x	12	8
Total, all départements						706	1,551	2,248	3,301

[a] From annual reports on establishments taxed, by Indirect-Tax Administration. These figures are complete, as the Registration Administration has not handled the luxury tax on hotels, etc.

Instead of classifying different establishments rigidly as either "luxury," or "non-luxury" of a certain grade, it has been suggested that the rate of the tax be made progressive, thus indirectly classifying the more luxurious establishments, in so far as the size of their gross receipts indicates their luxury nature. This is obviously a very indirect and faulty way of arriving at the discrimination desired; therefore the rates might be made to progress, not only with the size of turnover, but with certain other definite criteria, such as number of rooms, number of employees, etc.[92] The trouble this would save in abolishing the commissions would not be worth the accuracy lost, now that the commissions are functioning fairly smoothly.

Rates. — One way to mitigate the harshness involved in discriminating between luxury and non-luxury hotels, etc., is to apply an intermediate rate, or rates, to doubtful cases. This was done in 1920 when a 3 per cent tax was levied on establishments clearly not "luxurious," but sufficiently presentable to stand out from the great mass of hotels and restaurants. This of course was no lightening of the burden if it merely meant that some establishments formerly free of the luxury tax would now become taxable at 3 per cent. Doubtless it did mean this in many cases,[93] but in many others it appears to have resulted in a lowering of the tax from 10 per cent to 3 per cent. As the Chamber Finance Committee put it, the intermediate rate [94] would satisfy those commissions which disliked seeing no *de luxe* hotels at all in their provinces, and it would therefore be levied on "ordinary hotels of the chief towns of the départements or *arrondissements*, where the majority of French travelers and middle-class foreigners stop." [95]

Once the classification was thus refined, further refinement seemed logical. In 1921 the Chamber Finance Committee approved a proposal to establish a rate of 6 per cent for hotels, etc., which were clearly too "luxurious" to be let off with a 3 per cent rate, but which the commissions hesitated to tax at 10 per cent.[96] This plan failed, but the Senate Finance Committee in 1922 favored a still more extreme proposal, whereby five different rates would be employed (1.1, 3, 5, 7, and 10 per cent).[97] Even this was more moderate than a plan advanced by a special commission, formed at that time, of tax officials and hotel representatives to study the luxury tax; they proposed ten different rates ranging from 1 to 10 per cent.[98] The Government finally suggested an intermediate rate of 8 per cent in 1928 [99] but this too failed of passage.

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[92] *Cf.* suggestion attributed to De Lasteyrie in *Le Matin* of April 27, 1922, cited by *J.C.I.*, May 8, 1922, p. 237.

[93] *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 7, 1922, p. 3.

[94] Klotz proposed a 5 per cent rate and the Committee agreed, but the Chamber cut it down to 3 per cent. *Cf. Déb.*, 1920, *Ch.*, *S.O.*, p. 1311 (April 24).

[95] *D.P.*, 1920, *Ch.*, *S.O.*, p. 214 (No. 589).

The 3 per cent class furnishes an important part of the revenue, if conditions are similar to those in 1921, when of a total 80,501,670 francs collected from the luxury-establishments tax, the 3 per cent rate accounted for 37,163,053 francs, or 46 per cent (Table 16).[100] The yield from this lower rate formed a majority of the collections outside of the département of the Seine (55 per cent), while in the département of the Seine (largely Paris), it accounted for but little more than a third (37 per cent) of the total luxury-establishments tax yield. Its greatest relative effectiveness appeared in restaurants, cafés, etc., where it yielded 7.5 million francs in the provinces outside Paris as against only 2.3 millions coming from the restaurants subject to the 10 per cent rate. In the Seine it gave 8.3 million francs as against 9.1 million francs from the 10 per cent tax on restaurants. In contrast with this, hotels yielded more from the 10 per cent than from the 3 per cent rate both in the département of the Seine (13.7 millions as against 4.5 millions) and in the other départements (15.4 millions as against 13.8 millions).[101]

Now that the major problems of classification have been worked out, the luxury tax on hotels, etc., undoubtedly functions much more easily and is probably less unpopular than the luxury tax on retail sales.

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[96] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1497 (No. 2660).

[97] *D.P.*, 1922, *Sénat*, *S.E.*, p. 48 (No. 624).

[98] *Ibid.*, p. 48.

[99] *Cf. Projet de Budget de . . . 1929*, in *Bulletin de Statistique*, Aug., 1928, p. 312. The Administration appears to favor further differentiation in rates.

[100] *Cf.* Table 10 (*supra*, p. 114) for data on taxable turnover for 1924.

[101] For data on the number of establishments taxed at each rate, *cf.* Table 4 (*supra*, p. 75).

TABLE 16

YIELD FOR 1921, AND NUMBER OF TAXPAYERS, FOR LUXURY TAX ON HOTELS, ETC., IN 1921, SUBDIVIDED BY NATURE OF ESTABLISHMENT, LOCATION, AND RATE[a]

(Monetary items in francs.)

Type of Establishment	Département of the Seine (Paris)								All Other Départements							
	Taxed at 3 Per Cent Rate				Taxed at 10 Per Cent Rate				Taxed at 3 Per Cent Rate				Taxed at 10 Per Cent Rate			
	Number		Tax		Number		Tax		Number		Tax		Number		Tax	
		Per Cent		Per Cent		Per Cent		Per Cent		Per Cent		Per Cent		Per Cent		Per Cent
Hotels..........	502	29.25	4,512,502	31.02	39	12.11	13,722,872	56.01	2,441	23.63	13,823,941	61.13	122	8.56	15,408,299	81. 79
Restaurants, cafés, etc..........	466	27.16	8,267,529	56.82	141	43.79	9,106,766	37.17	1,486	14.38	7,450,442	32.94	117	8.20	2,310,303	12 26
Supervised brothels.......	151	8.80	317,807	2.18	92	28.57	768,174	3.14	340	3.29	362,562	1.60	134	9.40	401,006	2.13
Tea and pastry rooms.........	42	2.45	268,479	1.85	24	7.45	698,622	2.85	445	4.31	517,425	2.29	34	2.39	309,469	1.64
Houses, villas, and furnished rooms rented.........	555	32.34	1,181,707	8.12	26	8.07	204,241	0.83	5,619	54.39	460,659	2.04	1,019	71.46	408,865	2.17
Totals.......	1,716	100	14,548,024[b]	100	322	100	24,500,675[c]	100	10,331	100	22,615,029	100	1,426	100	18,837,942	100

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[a] *D.P.*, 1922, *Sénat*, *S.E.*, p. 48 (No. 624).

[b] Given as 14,448,024 in source; apparently a misprint in either the total figure or one of the constituent figures.

[c] Given as 24,500,680 in source.

Its rate has been raised somewhat more than has that of the retail tax (to 13 per cent instead of to 12 per cent), but despite this, fulminations against the luxury tax are usually aimed primarily at the retail-sales tax. This is partly because the administration of the hotels tax is less vexatious both to taxpayers and to tax collectors.

But in its early years the tax must have yielded far less than it should have done, especially as regards the first-class hotels and restaurants. Table 4 (p. 75) shows the steady growth of the number of establishments subject to the high rate, from 706 in 1920 to 3,667 in 1927, whereas the number subject to the second-class rate increased at a rate only 42 per cent as great. No doubt this is partially accounted for by increased tourist travel, accumulation of wealth within France, etc., but the figures suggest, too, that it took some time for the classification commissions to work out strict enough standards and to apply them rigidly.

Hotels, boarding houses and sanitariums furnish far more revenue under the first-class rates than do restaurants, bars, cafés, etc., though they are much fewer in number. Under the second-class rates the discrepancy in yield between the two groups is much less, though here still the hotels, etc., pay a larger total tax. These conclusions are drawn from data for 1921 (Table 16) and 1924 (Table 10, p. 114).

CHAPTER VII

FITTING THE IMPORT AND EXPORT TAXES INTO THE SYSTEM

There seems to have been no serious divergence of opinion in France over the broad principles applying to imports and exports under a turnover-tax régime. Imports should be taxed; exports should be exempt. To this both the Government and taxpayers have agreed, the only exception being from April, 1926, to January, 1927, when the imposition of the export tax was in itself evidence of the lengths to which the Government felt it had to go to get money.

But agreement on main principles does not necessarily imply agreement as to details, and here the import tax especially has shown itself a constant source of trouble.

Aside from raising revenue, the express purpose of the import tax was to protect French manufacturers and merchants from foreign goods which would otherwise have a competitive advantage over French products burdened by the cumulative domestic turnover tax.

Protection for the Domestic Producer. — Linking up the import duties with domestic taxes is a familiar idea in France, where for so long the State has leaned heavily upon indirect taxes on commodity production, sales, and movement. The *contributions indirectes*, or special excises, levied on beer, alcohol, vinegar, candles, mineral waters, salt, oil, etc., apply to imported commodities as well as to those produced in France. Although the Customs Administration collects the taxes on such imports, these levies are not thought of as part of a customs-duties system, but are simply regarded as extensions of the domestic tax to imports, fluctuating in rate with the domestic taxes, and levied only because of the existence of the latter. Hence there was ample precedent for extending the turnover tax, itself a commodities tax *par excellence*, to imports.

The reasoning back of such an attitude is that the commodity or business-transfer taxes are intended to be indirect, that is, shifted to the consumer. The presence of foreign tax-free goods competing with domestic taxed goods would in some cases force the French producer to absorb the tax himself. Hence it makes no difference whether or not the foreign goods come from a country already levying a turnover tax; the introduction of such a tax within France was by itself sufficient reason for extending the levy to imports.

That there might be a truly equivalent burden upon foreign goods, they should be taxed at varying rates upon importation, as French commentators have noted,[1] for domestic goods are subject to the tax several times before they reach the consumer, whereas foreign goods are struck but once by the French tax if they enter in the finished state and go directly to consumption. Thus foreign raw materials might well be taxed at only the ordinary rate of 2 per cent, while finished products bore a rate of, say, 5 or 6 per cent. Although the regular customs duties are fixed largely in this manner, this has not been attempted for the import tax, save in a very rough way during 1920–1926 when the double import tax and, following it, the purchase tax, were levied.[2] The motive behind these special taxes was not that of protecting French finished products; its aim primarily was to protect importing merchants. The main reason for not attempting to balance exactly the burden on imported and domestic goods has probably been fear of administrative difficulties in fixing the rates and making the necessary discriminations, but this point is not clear, as no Finance Minister has proposed such action and it appears never to have been seriously considered in either house.

Administrative Problems. — After studying the development of the import tax since its inception in 1920,[3] one might think this the most complicated part of the entire turnover-tax system. But it is easier to handle in practice than the domestic tax, for excepting outright smuggling the chances of evasion are few. The monthly payments and statements, bookkeeping requirements, distinctions between dealer and agent, and *forfait*, or estimated-tax-base, system are absent. The replacement taxes, however, have necessitated some detailed checking up in the case of imported commodities going to those subject to these taxes, which commodities are therefore exempt from the import tax, and the other exemptions, not as troublesome as some that exist only in the domestic tax, add slightly to the burden of administration.

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[1] *Cf. Juris-Classeur Fiscal*, Division T, Nos. 1–11; Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 4, 1927, and various previous *Rapports*.

[2] For legal details, *cf. infra*, pp. 300–306.

[3] *Cf. infra*, p. 298 *et seq.*

This view must be modified in one particular. Exemption from a surtax on imports was at first granted to commodities coming directly from the country of origin,[4] and the impossibility of checking up on fraudulent invoices made evasion widespread. It took but a short time for importers to learn how to defraud the Treasury, with the result that throughout 1921 the revenue from the import tax and surtax made a sorry showing in comparison with that of the regular customs duties, as indicated in Table 17. Part of the discrepancy revealed there is due to increases in the specific rates of the customs duties, but the differences appear too great to be accounted for by this fact alone, or by the fact that the customs duties, not applying to all imports, may not have touched those commodities the trade in which actually fell off in greatest proportion. Something peculiar to the import tax was affecting its yield, and the writer is inclined to lay the blame on the provision noted above. It is interesting to note that the total yield of the turnover tax (including the import tax) made a better showing compared with the average for October-December, 1920, for each month of 1921 than did the import tax. Since the law was changed in 1925, abolishing the exemption granted commodities coming direct from the country of origin, this particular question is no longer of importance.

At the present time the chief problems are two:[5] fixing the value of the goods for tax purposes, and preventing abuse of the *soumission cautionnée* régime by which goods that may be re-exported are admitted temporarily tax-free.

Unlike the bulk of the customs duties, the import tax has *ad valorem* rates. The Administration prints current lists of prices for the information of importers, which it bases, not only on standard price quotations on internal markets, but also, where necessary, on information both from the importer and from the French manufacturers of similar goods. If these latter two agree, the result must be near the truth, for it is to the importer's interest to set the figure low, the domestic manufacturer's to set it high.

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[4] *Cf. infra*, pp. 301, 302.

[5] Statement to writer at Finance Ministry.

TABLE 17

PERCENTAGE VARIATION FOR 1921, FROM AVERAGE MONTHLY COLLECTIONS OF LAST QUARTER OF 1920

(1) ORDINARY CUSTOMS RECEIPTS
(2) IMPORT-TAX BRANCH OF TURNOVER-TAX SYSTEM[a]

	Customs Duties[b]	Import Tax[c]
1921: January	−22.66	−24.74
February	− 5.30	−35.54
March	−13.35	−40.96
April	−15.44	−45.84
May	−23.32	−57.43
June	−22.41	−55.19
July	−21.07	−59.62
August	−11.82	−46.50
September	− 0.20	−44.99
October	+ 5.69	−38.13
November	+ 4.18	−41.73
December	+25.00	−29.32

[a] Source for all statistics of tax yield is *Bulletin de Statistique et de Législation Comparée*, 1921.

[b] Base 100 = 102,717,667 frs., average monthly collections, Oct. – Dec., 1920.

[c] Base 100 = 34,600,333 frs., average monthly collections, Oct. – Dec., 1920.

Imported goods subject to customs duties may be placed under the *admission temporaire* régime, whereby the goods, usually raw materials, may be worked up in France and re-exported without paying either customs duties or the import tax. If however they are duty-free goods, the question still remains as to the import tax, and a special régime known as *soumission cautionnée* has had to be developed along similar lines. Importers besieged the Administration for more and more liberal terms, finally getting the permissible period of time before re-exportation up to two years; and they asked that more and more transformation of the raw material be allowed while the goods remained in France. The period of time was cut down to six months finally to check abuse of the system, but the problem has not been solved, largely because, in contrast to the *admission temporaire*, no fine can be levied if the goods are finally not re-exported, but placed on the French market. The import duty is collectible in such cases, of course, but the complications involved in following each particular lot of goods through six months — and formerly two years — are serious, especially as records show that about 75 per cent of the commodities put under *soumission cautionnée* are never re-exported, but are sold in France.[6]

Protection for the Merchant Importers. — Troublesome as the *soumission cautionnée* régime may be, this administrative problem is simplicity itself compared to the task faced during 1920–1926 when Parliament attempted to protect domestic import merchants from the competition of foreign export merchants who could get their goods into the hands of French consumers with less total tax burden. The legal details described elsewhere,[7] show that the problems were of two kinds: detecting fraud in the matter of goods supposedly sent direct from the country of production (1920–1925), and interpreting the law. The first was well-nigh impossible in many cases;[8] the second could be done, but added unnecessarily to the Administration's troubles, and hindered the tax collection from settling quickly into an easy routine. The complicated provisions of article 84 of the law of July 13, 1925, enacted to protect the French import merchants and at the same time not to burden unduly the French manufacturer using raw materials from abroad, made this text "one of the most difficult to interpret the Administration has ever had," according to a high tax official.[9] The provisions of the previous scheme, 1920–1925, which likewise attempted to levy a surtax on goods not passing through French importing merchants, seem even worse. This was due largely to the haziness of Parliament's ideas both as to what should be done and how to do it.[10]

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[6] Statement to writer at Finance Ministry.

[7] *Cf. infra*, p. 300–306.

[8] *Cf. infra*, p. 302.

[9] De Margerie, in *Débats*, 1927, *Chambre*, *Session Ordinaire*, p. 484 (Feb. 22).

[10] *Cf.* the passage of the "*produits manufacturés*" clause, *infra*, p. 302.

The aim was laudable enough, for it is clearly a case where French and foreign merchants are after the same business. If one loses, the other wins, in contrast to the situation existing between, say, English and French retailers. If the turnover tax tends to drive independent retailers out of business, making them merely depositories for wholesalers or causing them to be absorbed by integrated concerns, their loss does not mean a foreigner's gain. But if the importing merchants in the French ports are forced out, it is the foreigner's gain, for there are a certain number of French consumers who will always buy from abroad through an intermediary of some sort.

The case is not so clear as to larger consumers who might buy through importers were there no turnover tax, but who are ready to switch over to buying direct from the foreign producer, if need be, to escape a tax. Should these be penalized by being taxed doubly (once on "importation," once on "purchase," as was done in 1925–1926) merely in order to preserve their business for merchant importers? France has finally answered no, in the abolition of the purchase tax. On the whole the existing system, by which merchant importers are granted exemption from the turnover tax on the first sale in France of certain raw materials, seems a fair compromise.[11] It is politically more feasible since the effort to protect the merchant importers takes the form of an exemption of the latter rather than an extra tax on the French consumer. The most serious criticism against it is that it does not go far enough, for the list of raw materials is rather strictly limited.[12] Finance Minister François-Marsal had proposed "all imported goods destined to undergo industrial transformation," but the Chamber Finance Committee thought this was allowing too much.[13] So it was, probably, in the days when the Treasury needed every franc it could gather. But at present the list might be considerably extended, to the benefit of both the merchant importer and the industrial consumer.

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[11] Discussed in detail in *Documents Parlementaires*, 1921, *Chambre*, *Session Ordinaire*, p. 1147 (No. 2392).

[12] *Cf. infra*, p. 257.

[13] *Cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 8, June 7, and Nov. 15, 1921; July 11, 1922; and especially its *lettres* to the Minister of Finance, Sept. 10 and Dec. 14, 1925, complaining that the decree naming the raw materials violated Parliament's intention, in restricting so narrowly the list of raw materials.

Bound up with this question is the treatment to be accorded products grown in French colonies and imported into France. As yet imports from the colonies are not, as such, granted exemption from the import tax, although proposals to that effect, especially as concerns Algeria, have been made from time to time and supported by business interests within France who would like to see a closer *rapprochement* between the colonies and the mother country. Naturally this conflicts with the interests of French competitors of certain colonial producers, such as millers. The net result has been some favoritism indirectly granted through the raw materials resale exemption clause, but nothing else.[14] An alternative, extension of the turnover tax to all the colonies, has not been attempted.

Despite the confusion developed from 1920 to 1925 there is nothing inherently unworkable in the distinction Parliament has wished to make in favor of the merchant importers. The clause in the 1920 law, double taxing all imported articles except those purchased in the country of production, set up a poor standard for this distinction and made evasion easy. The purchase tax and tax on foreigners' employees in France levied in 1925 was far better, but the effort to double tax all imports other than those coming through French merchant importers was rendered somewhat more difficult by levying the extra tax on certain types of transactions. It would have been simpler had the import tax rate been doubled (raised to 4 per cent) for all goods, with a rebate or set-off or exemption of 2 per cent to all those who resold any of the goods in France in the same state in which they were imported, and who were located in France and therefore subject to the turnover tax on such resale. This, in effect, defines the French merchant importer; it is the definition used for the granting of the exemption of resale of raw materials in France, which exemption could of course be maintained as a special favor to French manufacturers, with the import rate set at only 2 per cent for such commodities.[15]

[14] *Cf.* Chambre de Commerce, Marseille, *Rapport*, Sept. 26, 1922.

[15] Such was the plan proposed by Deputy Artaud and sponsored by the Société pour la Défense du Commerce et de l'Industrie, Marseille, *Bulletin*, April 26, 1923.

But such action does not seem likely, in view of the French consumers' protests. These might be met by keeping the general import rate at 2 per cent, exempting the merchant importers from the import tax entirely, and as to the raw materials, exempting the importers from both the import tax and the domestic tax on the resale of the goods in France. The only bars to this would be the drain on the Treasury, and the protests from those French manufacturers in competition with foreign finished goods; but these objections will probably be enough to prevent the adoption of such a plan, at least until some of the merchant importers themselves show far more concern than they did in the early years of the tax, when the Chamber of Commerce of Marseille admitted that the importers of wines and sugar seemed to take no interest at all in the framing of the resale exemption clause for raw materials.[16]

Exports. — The Government, concerned about France's unfavorable balance of trade in the post-war years,[17] did not wish to chance hindering exports by a tax.[18] Furthermore, the suggestion of an export tax was strongly opposed in business circles.[19] As francs depreciated faster than the internal price level rose, it might be thought that exporters were being favored, if anything, by the economic dislocation and could therefore well afford to pay a tax;[20] but it was pointed out that most of the exporters got their raw materials from abroad and to this extent were burdened by the depreciating exchange, and that contracts made in francs proved bad bargains as the franc continued to sink after the terms of sale were concluded. The profit margin of most exporters was narrow, it was claimed, and narrower still were the differences between the selling prices of the French exporter and those of his foreign competitors — often less than the 1.3 per cent export tax proposed by the Government in 1924. The spread between the French price and the English or German price for wool thread delivered to Japan was said to be only one-eighth of one per cent.[21]

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[16] *Rapport*, Louis Bergasse, Sept. 26, 1922. Only the metal-products merchants and producers of that region complained of the omission of their commodities from the special favor granted raw materials.

[17] On Feb. 10, 1920, the Minister of Commerce sent a circular letter to all Chambers of Commerce, noting that exports for 1919 were 8,713 million francs, as against imports of 29,778 millions, and urging business men to export more of their products even at the sacrifice of giving up a part of the profitable home market. *Cf.* Chambre de Commerce, Paris, *Bulletin*, 1920, pp. 134–136.

[18] Apparently the export tax levied in 1920 (*cf. infra*, p. 307) on luxury dresses, laces, etc., considerably decreased the amount sold. *Cf. D.P.*, 1921, *Ch.*, *S.O.*, p. 1236 (No. 2469).

[19] Chambre de Commerce, Paris, *Bulletin*, 1924, p. 212; Union des Syndicats Patronaux des Industries Textiles de France, *Bulletin*, Jan.-Feb., 1924, p. 174, and special supplement of Dec. 1, 1924; *Avis* of Customs Committee, *D.P.*, 1924, *Ch.*, *S.O.*, p. 380 (No. 7172); *D.P.*, 1925, *Ch.*, *S.O.*, p. 276 (No. 1281).

[20] Especially since the tax burden would be insignificant compared with risks incurred in a time of fluctuating prices. *Cf. D.P.*, 1924, *Ch.*, *S.O.*, p. 1395 (No. 441).

Pressure for revenue brought the export tax, however, in 1926.[22] Loucheur, Minister of Finance, claimed nothing had been gained in foreign trade by exempting exports, as other countries, such as the United States, Canada, and Czecho-Slovakia, had considered this exemption a "dumping" measure and had levied retaliatory import duties in consequence.[23] The Senate protested against the measure, but in vain; indeed, later in the year its Finance Committee heartily accepted a substantial increase in the export rates.[24]

Experience with the export tax in 1926 did not overcome the earlier arguments against it, and its abolition was demanded,[25] especially in view of the disputes that developed over the inclusion of transportation charges in the tax base, goods admitted temporarily duty free to be re-exported, etc., and also because the franc, rising toward the end of 1926, no longer offered an excuse for taxing exporters favored by a falling exchange.[26] The application of the tax was suspended in 1927.

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[21] Chambre de Commerce, Paris, *Bulletin*, 1924, p. 1465.

[22] Clémentel had proposed an export tax in 1924; the Chamber Finance Committee substituted for his plan a lighter tax. Even this failed of passage at that time. *Cf. Journal des Contributions Indirectes*, March 1, 1925, p. 118.

[23] *D.P.*, 1925, *Ch.*, *S.E.*, p. 300 (No. 2180).

[24] *D.P.*, 1926, *Sénat*, *S.O.*, p. 1160 (No. 484).

[25] Chambre de Commerce, Paris, *Bulletin*, 1926, p. 1577.

[26] *Ibid.*, pp. 1634–1637.

PART THREE

THE LEGAL HISTORY OF THE TURNOVER TAX

CHAPTER VIII

THE "PAYMENTS TAXES"

To make clear the character of the problems encountered in the administration of the turnover tax, this section is devoted to a chronological study of the laws, administrative orders, court decisions and unofficial interpretations which have built up the body of tax doctrine applicable to the French situation. The forces behind these laws, rules and interpretations, and the possible alternatives which failed of adoption, have been discussed in a broad way in Chapter II, and have received further detailed consideration, for the more important problems, in Chapters III–VII.

The present chapter deals with the "payments taxes" of 1918–1920. Following chapters contain a description of the domestic turnover tax at the ordinary rate, as passed in 1920, and a statement of the year-to-year changes made through 1928. Mention is made therein of the other branches of the turnover tax — the luxury taxes, the replacement taxes, and the import and export taxes — but detailed legal study of these is deferred to the last chapters in this section.

On the last day of 1917, Parliament introduced the "payments taxes," which later proved to be the direct forerunners of the 1920 turnover-tax system. Their chief characteristics show that the far-reaching law of 1920 made its appearance, not suddenly as something unknown and odd, but rather as a development of an already existing, if still new, situation.

The new taxes had this in common: they were levied on payments of sums of money. Beyond this, they showed striking differences. Four separate taxes may be distinguished.

One, which may be called the "non-commercial-payments tax," touched all payments that occurred outside the current of commercial life, and was collected only when some written acknowledgment of payment was given. Another, the "commercial-payments tax," was limited strictly to commercial sales at retail or for consumption, and was collected even though no receipt was given.[1] A third, the "luxury-articles tax," took the place of the commercial-payments tax when the object sold had attributes of luxury, and a fourth, the "luxury-establishments tax," extended the luxury concept to payments made for food, drink, or lodging at certain "first-class" hotels and restaurants. The rate of the first two taxes was light, being only two-tenths of 1 per cent on the gross receipts; that of the luxury taxes was heavy, amounting to 10 per cent.

Like most of the new taxes levied in France during the last ten years, this group was not strictly an innovation, or a complete break with the past. Ever since 1871 all acknowledgments of payment — commercial or non-commercial — had been subject to a very low graduated stamp tax; the maximum levy on any one payment had been 50 centimes. The 1917 taxes, substituted for the stamp tax on the transactions they touched, were levied on much the same basis and collected in much the same way. But they introduced two important distinctions: one, between commercial and civil payments; the other, between ordinary and luxury expenditures.

Commercial versus Civil Transactions. — The distinction between commercial and civil (*i.e.*, non-commercial) transactions is one of the most important features of the French tax system. It is the basis of the profits tax on business and to a certain extent of the present turnover tax. It was no less essential to the operation of the payments taxes.

To understand the sense of "commercial" as contrasted with "civil," one must recall that France has a separate code of laws and a separate system of courts to settle disputes arising from business transactions. The civil law, which has had exclusive jurisdiction over family relations, inheritances and gifts, and (until recently) over most questions concerning real property, has a procedure of written proof, registration of documents, etc., little adapted to the rapidity of business operations, and has not the special safeguards deemed necessary to uphold that trust in credit which is so essential a part of commerce.[2] It has therefore been excluded from the business field by a process of evolution which began in the Middle Ages when groups of wealthy merchants formed rules of their own for dealings among themselves, and which has developed through codifications of commercial law under Louis XIV and under Napoleon Bonaparte, with later amendments to meet the changing conditions of commercial life.[3]

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[1] Except for sales under 150 frs. *Cf. infra*, p. 195.

The distinction rests on the definition of the commercial act. What is an "act of commerce" according to French law? The Code gives a list of acts instead of a general definition, but the idea throughout appears to be that of buying with intent to resell, at a profit.[4] Another way to phrase it is that one purchases goods or money and puts them in circulation with the hope of enrichment for himself. Important consequences follow from these concepts. The farmer who sells wheat which he himself has raised is not performing a commercial act — he has not bought the grain to resell it, but has taken it from the earth. Likewise, until a special law was passed in 1919, the mine operator who extracted the ore and sold it to the smelter and refiner performed no commercial act. The capitalist who loans his own money directly to the one who wishes to make use of it, is not engaged in a commercial transaction.

But when a middleman or manufacturer enters these operations, the concept of the "commercial act" appears. Thus, the grain broker who buys wheat from the farmer with intent to sell it to the miller; the coal dealer who buys from the mine intending to resell to a distributor; the banker who acts as an intermediary in the flow of investment capital — all these perform commercial acts. True, the banker may not "buy" the money to "resell," strictly speaking, but he is engaged in a commercial transaction, for the Code likens these operations of an intermediary (as, for instance, a commission merchant, or a grain broker trading for the account of a third party) to those of the "buy and resell" class. It makes no difference whether or not the goods are transformed before being sold; the manufacturer who buys leather and sells the resulting shoes is performing commercial acts.

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[2] E. Thaller, *Traité élémentaire du droit commercial*, 7th Ed., pp. 3, 4.

[3] L. Lacour, *Précis de droit commercial*, pp. 1–6.

[4] *Cf.* Allix and Lecerclé, *L'Impôt sur le chiffre d'affaires*, p. 45.

The general definition given above refers to acts which are commercial because of their nature; that is, because of the intent of the party concerned. Thus, one who buys an automobile for personal use and only later decides to sell it, does not perform a commercial act either in the purchase or the sale.[5] But the Code goes further and decides that business safety demands that certain forms of transaction be regarded as commercial in any case, regardless of the person involved or his intent. The two important examples here are: transactions performed by means of drafts or bills of exchange, and all acts performed by a stock company.[6]

All that has been said above refers to the commercial act. From this comes the concept of the *commerçant*, a word which has no exact equivalent in English. It designates him who repeatedly, and as a part of his profession, performs commercial acts for his own account.[7] Thus, a retired business man might occasionally draw a draft merely to settle some personal affair; the act would be a commercial one, but he who did it would not be a *commerçant*. It is often important to know whether or not he who does the commercial act is in addition a *commerçant*, for if he is, he is required by law to fulfill special duties, such as the maintenance of a regular system of bookkeeping.[8]

As will be seen, the payments taxes made important use of the distinction between the *commerçant* and the *non-commerçant*.

The second important distinction, that between ordinary and luxury articles and establishments, was retained in the turnover tax, and is discussed elsewhere.[9]

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[5] Though when the car was sold to him by the manufacturer or dealer, the transaction was, of course, commercial as concerns the latter. Like all retail sales for consumption, this is a "mixed transaction" — *i.e.*, commercial as regards the seller (since he had bought with this intention in mind), but not commercial as regards the consumer, who does not buy to resell.

[6] But this rule has not always been adhered to, as to the taxability, *e.g.*, of an agricultural corporation (Allix and Lecerclé, *op. cit.*, p. 57), or a corporation renting unfurnished apartments (*Journal de l'Enregistrement*, Aug.-Sept., 1921, art. 7358).

[7] The clerk and the commercial traveler are not *commerçants*, for they are not acting independently; the commission merchant, on the other hand, is a *commerçant* for he is not bound to one employer, and he can act in his own name.

[8] The above statements are based on Thaller, *op. cit.*, pp. 1–36; Lacour, *op. cit.*, pp. 7–20, 28–35, 185–188, 204–207.

Subject of the Tax. — The payments taxes were impersonal; they were levied upon the payments themselves. Legal responsibility for both the civil- and commercial-payments taxes rested primarily upon the payer, or purchaser; but the payee was in both cases jointly liable to the Treasury, though in the civil-payments tax he had no legal recourse against the payer, as he did in the commercial-payments tax and the luxury taxes.

The civil-payments tax was levied upon all papers, signed or unsigned, showing payments or transfers of funds, either to a *non-commerçant* for any cause whatever, or to a *commerçant* for causes unconnected with the exercise of his business.[10] Examples of the first class of payments are: to a farmer, upon sale of his produce; to a landlord, for rent; to an employee, as wages;[11] to a depositor withdrawing funds.[12] The second class is exemplified if the one who receives the rental payment is, say, a jeweler by trade but a landlord on the side.[13] Of course this tax could readily be avoided if the payee was willing to dispense with a receipt. The Government, realizing this, wished to make receipts obligatory for all payments over 150 francs, but was dissuaded by prophesies of the confusion it would cause in certain circles, especially at agricultural and other fairs, etc.[14]

The commercial-payments tax was levied upon all payments for sales at retail or for consumption, of any merchandise, provisions, supplies, or goods whatever, if the amount of the sale exceeded 150 francs.[15] If the sale was for 150 francs or less, the tax was due only if a written receipt of payment was given by the seller, except that sales for 10 francs or less were exempt in any case. The tax applied to payments for imports, if importation was made by a "consumer."[16] If goods were returned and the sale cancelled, the tax was refunded to the seller, but only if he proved that he had already refunded the tax to the purchaser.[17]

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[9] For legal details *cf. infra*, pp. 265–278; for debates, etc., *cf. supra*, pp. 157–179.

[10] Law of Dec. 31, 1917, art. 19.

[11] Dalloz, *Répertoire Pratique, année* 1918, 4^ème^ *partie*, p. 16.

[12] *Ibid.*, p. 35. [13] Allix and Lecerclé, *op. cit.*, p. 17. [14] Dalloz, *op. cit.*, p. 16.

[15] Law of Dec. 31, 1917, art. 19. *Cf.* also Dalloz, *op. cit.*, p. 15.

[16] Imports of personal objects in use, such as were exempt from the regular customs duties and internal taxes, were exempt from both the 0.2 per cent and 10 per cent

The definition of sales at retail or for consumption was a difficult matter, as was proved again when this distinction was introduced into the turnover tax for a short time in 1926.[18] Under the 1917 law, the following were interpreted as "sales for consumption": sale to a manufacturer of a machine to be used by him to produce goods which he is to sell to wholesale merchants; sale to a manufacturer of coal, coke, oil, grease, for use in his machines; sale to a hotel keeper of furniture, linen, glassware, used in his establishment. On the contrary, a sale to a tailor of cloth to be made into a suit to be sold to his customer was held not to be a sale for consumption, and hence was not taxable.[19] Despite these difficulties, and the relatively small yield that was bound to result from restricting the tax to retail sales, the fear of adding too much to the cost of living — stressed especially by the Socialists — was powerful enough to prevent extension of the tax to sales other than at retail.[20]

The luxury-articles tax was similar to the commercial-payments tax except that delivery of a receipt (to which a stamp had to be attached) was obligatory for all sales, there was only a one-franc instead of a ten-franc exemption limit, and the tax applied whether the sale was made by a *commerçant* or *non-commerçant*. The list of luxury articles was drawn up by decree and enacted into law.[21] The commercial-payments tax was not due if the luxury tax was applicable.[22]

The luxury-establishments tax was levied upon all expenditures for lodging or for consumption within the establishment of food and drinks, if occurring in an establishment which, because of its type of clientèle, the way it was managed, its basic prices, and its size, could be considered luxurious. Commissions were set up to deter-

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taxes. *Arrêté* of March 23, 1918, art. 11. The base for the import tax was "cost through customs," as in the 1920 turnover tax. *Cf. infra*, pp. 293, 294.

[17] *Décret* of March 29, 1918, art. 13.

[18] *Cf. infra*, p. 259.

[19] *Instruction* No. 3536. These subtle distinctions had no strong appeal to the business man. *Cf.* Chambre de Commerce, Paris, *Bulletin*, 1918, p. 295, and *supra*, pp. 15, 17.

[20] Dalloz, *op. cit.*, p. 16.

[21] *Cf. infra*, p. 267.

[22] Dalloz, *op. cit.*, p. 23.

mine which hotels, restaurants, etc., in each département were or were not "luxurious." [23]

All the above taxes took effect April 2, 1918.

Tax Base. — The law contained practically no complications as to the tax base; from its language one could assume that the base was the total amount received in payment. The civil- and the commercial-payments taxes, however, had an important provision as to the unit of the tax base, fixing the latter at 100 francs or fraction thereof. That is, a payment of 201 francs was subject to the same tax (60 centimes) as was one of 300 francs.[24] The two luxury taxes, on the contrary, employed one franc or the fraction thereof as the tax base unit.[25]

When several separate purchases were made, the tax base was found by adding the purchases together instead of taxing them separately, providing the purchases were made at the same time and place.[26] Exception to this rule was made for luxury articles; the sale of each article was taxed separately in any case.[27]

Exemptions. — The most important general exemption was that concerning exports. None of the payments taxes applied to "payments for delivery abroad of merchandise manufactured or produced in France." [28] Purchasers who lived abroad but who bought luxury articles while in France, could get the luxury tax refunded to them at the customs as they left, if they showed the stamped receipt given them when they bought the goods.[29]

The civil-payments tax was the only one of the four that was accompanied by a list of exemptions. There were seven items in this list,[30] the most interesting of which was the one providing that acknowledgment of payment on a check was not taxable.[31] Acknowledgment of payment on a bill of exchange or promissory note, was exempt — logically, as the proportional tax of 0.2 per cent was already levied on these instruments by article 18 of this same law. As noted above, a general exemption was granted to all payments of ten francs or less, unless the payment was made on account as part of a larger sum.[32]

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[23] *Cf. infra*, p. 275.

[24] Law of Dec. 31, 1917, arts. 19, 23.

[25] Law of March 22, 1918, art. 2.

[26] Dalloz, *op. cit.*, p. 20. This was also important in deciding whether or not the "amount paid" was more or less than 150 frs.

[27] *Ibid.*, p. 28.

[28] Law of Dec. 31, 1917, arts. 23, 27.

[29] *Arrêté* of March 23, 1918, art. 16.

[30] Law of Dec. 31, 1917, art. 20.

[31] Deputy Quenais explained this on the theory that a check is not in reality a receipt for payment, but only a statement to the banker — thus apparently not considering a cancelled check as a receipt. In any case, he added, when a check is employed there is usually a coexistent receipt of some kind already taxed by the law; also, it is

The commercial-payments and luxury taxes had no exemptions other than the ten-franc and one-franc limits noted above.[33]

Methods of Payment. — There were two methods of payment for the taxes — the use of stamps to be affixed to receipts or to the merchant's books, and a system of monthly payments by the merchant to the Treasury.

The monthly-payment plan was used only for commercial payments excluding those arising from the sale of luxury articles.[34] The merchant had to be properly authorized by the Treasury to use that method.[35] Since the seller was thought of as a tax collector for the Government, he was supposed to put on the customer's receipt (if any) a printed notice to the effect that the tax had been paid to him for the Treasury's account. Then within the first ten days of each month he sent to the Treasury the amount of tax collected (in other words, due on payments received) during the previous month.[36] This method was almost identical with the principal one that has been used ever since 1920 for the turnover tax.

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necessary to encourage the use of checks. This seems significant of the French attitude toward the check. Statements of deposit or withdrawal as between a bank and its depositor were also exempt. Dalloz, *op. cit.*, pp. 17, 18.

[32] The only other exemptions from the civil-payments tax concerned: extinction of a debt by means of *compensation légale* (where equal debts are set off against each other), or by *confusion* (concurrence of two adverse rights to the same thing in one and the same person); Government purchases made for public purposes; receipts by, or withdrawal of funds deposited with or intrusted to, the Government. Intrabank transfers (*virements en banque*) were not taxed, apparently because of the difficulty of reaching the correct ones. *Ibid.*, p. 18.

[33] Later, all payments other than those of the luxury class, made by the State, the départements, the communes and public establishments were exempted (law of June 29, 1918, art. 23). Luxury-articles payments on account of purchases made before Jan. 1, 1918, were declared exempt (law of April 5, 1918).

[34] Law of Dec. 31, 1917, art. 27.

[35] *Ibid.*, art. 24. *Décret* of March 29, 1918, art. 14.

[36] *Décret* of March 29, 1918, arts. 15, 16.

For civil payments, luxury-articles payments and for commercial payments not under the above régime, reliance was placed on stamps.[37] The Treasury printed and distributed stamps of varying denominations (running up to 100 francs for civil payments and to 5,000 francs for luxury payments).[38] The stamp was affixed to the merchant's books recording the sale. At the same time, an *estampille de contrôle*, a type of secondary or checking stamp, had to be affixed to the receipt given to the purchaser, or, if no receipt was given, to the merchant's books.[39] For civil payments, special receipt paper already stamped could be purchased in advance from the Administration, and a reduction of 2 per cent was given on such purchases, as allowance for possible loss or waste.[40] Stamps were not used for the luxury tax on hotels, restaurants, etc.[41]

Means of Control. — Control measures were not as extensively developed under the payments taxes as they later came to be under the turnover tax. The chief requirement imposed for control purposes was that every *commerçant* who sold articles costing more than 150 francs or who sold luxury articles of any price,[42] was required to keep a special book, in which were to be entered all sales subject either to the commercial-payments tax or to the luxury tax.[43] Detailed forms were prescribed for these entries, and special permission was declared necessary before any other form could be employed. The *commerçant* had to show this special book to any Registration or other special fiscal agents.[44]

A *non-commerçant* seller of luxury articles was required to give a receipt.[45]

To check up on sales for which the taxpayer claimed exemption on the grounds that they were not sales at retail or for consumption, the Administration required that the seller prove the sales were of this nature by securing from his customer a signed statement attesting: that he (the purchaser) was subject to the commercial-

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[37] Law of Dec. 31, 1917, arts. 21, 24, 27. *Décret* of March 29, 1918, *titres* I, III.

[38] *Décret* of March 29, 1918, arts. 1, 21.

[39] *Ibid.*, art. 10.

[40] Law of Dec. 31, 1917, art. 21. *Décret* of March 29, 1918, art. 4.

[41] Dalloz, *op. cit.*, p. 37, citing *Instruction* No. 3532.

[42] Dalloz, *op. cit.*, p. 21.

[43] Law of Dec. 31, 1917, arts. 25, 27, 28. *Décret* of March 29, 1918, arts. 6, 7, 8, 20.

[44] Law of Dec. 31, 1917, art. 25.

[45] *Ibid.*, art. 27.

and industrial-profits tax, or at least was in the list of exemptions noted for that tax; that he was buying the goods on his own account (except, of course, in the case of commission merchants or brokers); that the merchandise being purchased was destined to be resold, and would eventually bear the tax. If this was not done, the tax had to be paid on the transaction.[46]

He who sold the goods to this *commerçant*, also had to make note of the fact by entering in the special book or in the stub book the sale with the memorandum "Exempt — sold to a *commerçant*." [47]

Still another control measure applied when goods were exported, and a special form had to be filled out.[48]

Fines and Penalties. — The fine levied for violation of the provisions regarding the civil-payments tax was 7.5 per cent of the sum on which the tax had not been regularly paid, and in no case could the fine be less than 62 francs 50 centimes. The same fine was provided for violations of the commercial- and luxury-payments taxes, with the additional provision that in case of second and following offenses the fine could be increased by 25 per cent.[49]

These same fines had existed for violation of the provisions of the fixed stamp tax on receipts, with one exception: by the former law, the tax collector got one quarter of the fine recovered from the delinquent taxpayer, while by the 1917 law this share was cut to one tenth.[50]

In addition, any *commerçant* who refused to show the special book recording sales as provided in the law became liable to a fine of from 1,250 francs to 12,500 francs, with a supplementary fine of 125 francs for every day's delay in supplying the book.[51]

A penalty was provided to discourage a proprietor from describing his establishment as *de luxe* when it had not been so classified. If any proprietor did this, his establishment could arbitrarily be made subject to the luxury tax.[52]

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[46] The same provisions applied to importers. *Arrêté* of March 23, 1918, art. 9.

[47] *Décret* of March 29, 1918, arts. 24, 25.

[48] *Arrêté* of March 23, 1918, art. 15.

[49] Law of Dec. 31, 1917, arts. 22, 26–28. *Cf.* Dalloz, *op. cit.*, p. 19.

[50] *Instruction*, March 4, 1918.

[51] Law of Dec. 31, 1917, art. 25, and previous laws, increasing the *principal* of fines by 25 per cent.

[52] Law of Dec. 31, 1917, art. 28.

Development of the Tax, 1918–1920. — With one exception, there were no important changes in any of the payments taxes up to June, 1920, when the turnover tax supplanted them.

The one exception concerned *liqueurs* and special wines classed as *vins de luxe.* The *liqueurs* were the first to be subject to a new régime. They had been included in the list of luxury articles to be taxed 10 per cent when sold at retail or for consumption, but the Administration soon found it difficult to collect this levy. There were a large number of places where the *liqueurs* were sold at retail, and furthermore, many of the drinks cost less than one franc and so escaped the tax altogether. The Administration felt it could collect the tax on this particular luxury article much better if it could strike at the wholesale source,[53] since the Indirect-Tax Division of the Administration was already in touch with *liqueur* dealers in levying various other internal taxes on drinks.

Accordingly, the law of June 29, 1918, article 24, provided that the tax on *eaux-de-vie, liqueurs, apéritifs, vins de liqueurs* should thereafter be collected on sales made by producers or wholesalers to retailers or to consumers. The rate was raised from 10 per cent to 20 per cent, to compensate for the lowered value of the tax base.

The June, 1918, law had not touched *vins de luxe.* These, however, were brought under the above régime by the law of December 31, 1918, article 19. The rate was kept at 10 per cent, although this amounted to a lessening of the burden on the *vins de luxe*, since the tax was now levied, not on the retail price, but on the wholesale price.

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[53] *Documents Parlementaires*, 1918, *Chambre, Session Ordinaire*, p. 277 (No. 226).

CHAPTER IX

THE DOMESTIC TURNOVER TAX AS PASSED IN 1920[1]

THE law of 1920[2] levies the tax on the turnover, or gross receipts (*chiffre d'affaires*), originating in France,[3] of two chief classes of persons:[4] those who either customarily or occasionally buy to resell, and those who perform acts connected with activities which are taxable under the commercial- and industrial-profits schedule of the income tax. This latter classification renders taxable certain commercial middlemen, such as brokers, who do not buy to resell. A third class, of minor importance, is composed of those who are liable to the proportional tax on mine profits due under the law of 1810. Had this not been added, mine operators would have been automatically exempted, since they do not pay the regular profits tax, and extraction of material from the earth with subsequent sale is not held equivalent to "purchase" and sale.

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[1] Those provisions which are still in force today are spoken of in the present tense.

[2] Law of June 25, 1920 (hereafter referred to as the "basic law"), art. 59.

[3] "France" here does not include Algeria, the colonies, or the protectorates, but does include Alsace and Lorraine. Place of delivery of the goods, or place of performance of the services is the test for "place of sale." Thus Frenchman A can sell to Frenchman B and if the goods never enter France, no turnover tax is levied. But if they reach France, it makes no difference where the contract was concluded or the money paid. *Juris-Classeur Fiscal*, Division I, Nos. 19–21. *Cf.* also *Instruction* of Aug. 29, 1920, art. 2. The *Instruction* is reprinted in full in *Revue de l'Enregistrement*, 1920, art. 7143, pp. 478–510. As to the newly recovered provinces of Alsace and Lorraine, the turnover tax applied there expressly (art. 114 of basic law). This took the place of the German turnover tax which had existed since 1918. *J.-C.F.*, Div. I, No. 5. Since Jan. 11, 1925, the Saar basin has become an integral part of France, for tax purposes; hence a sale from Paris to that district is no longer an "export" and is therefore taxable. *Ibid.*, No. 9.

[4] "Persons" here includes any organization with a distinct individuality, even if not a "legal person" — *e.g.*, clubs. Bodies created by départements or communes, however, are not included in this, provided their governmental nature is shown clearly by the inclusion of their receipts and expenses in the local budgets. *J.-C.F.*, Div. E, Nos. 28, 29, 31–33.

The law then defines turnover. For those selling merchandise, commodities, supplies, or articles[5] of any kind — in short, any tangible goods — it is the total of the sales ultimately and with finality consummated.[6] This corresponds to the first and third classifications noted above. For those who act as intermediaries, agents, *façonniers*,[7] renters of tangible goods, furnishers or renters of services, bankers, discounters, and exchange dealers,[8] taxable gross receipts are the total amount of brokerage fees, commissions, allowances, stipends, rental charges, interest, discounts, *agios* and other emoluments with finality received.[9] This elaborate classification deals, in brief, with all those who do not buy and resell material articles. They are subject to the turnover tax by virtue of being in the second classification noted above — those whose acts are connected with activities taxable under the business-profits tax; and it seems possible that in certain instances they might be held taxable under the first classification — buying to resell — though French legal authorities are usually content to hold them under the second classification alone. A shipping agency, for example, might be considered as buying railroad services and reselling them to its clients. The definitions of turnover given above are virtually the same as those which were employed in levying the business-profits tax on an estimated basis until 1927 (the profits being assumed to be a certain percentage of turnover) and the existing special gross-receipts tax on large retail establishments.[10] Both these taxes were levied in 1917, so the concept of taxable gross turnover was not entirely new to French tax collectors in 1920.

The classifications of (*a*) taxpayers, (*b*) taxable turnover cut across one another. The situation existing as a result of the interpretation of the law by the Administration, courts, and commentators is summarized here:

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[5] "Marchandises, denrées, fournitures, ou objets quelconques." Art. 62, basic law.

[6] "Le montant des ventes effectivement et définitivement réalisées." *Loc. cit.*

[7] For the exact meaning of this word *cf. infra*, p. 245.

[8] "Intermédiaires, mandataires, façonniers, loueurs de choses, entrepreneurs ou loueurs de services, banquiers, escompteurs, changeurs." Art. 62, basic law.

[9] "Le montant des courtages, commissions, remises, salaires, prix de location, intérêts, escomptes, agios, et autres profits définitivement acquis."

[10] *Cf. J.-C.F.*, Div. H, Nos. 1–7. In Klotz's *projet*, the definition of turnover was simply stated as being the same as that employed for the profits tax. *Documents Parlementaires*, 1920, *Chambre*, *Session Ordinaire*, pp. 44, 45 (No. 166).

Taxpayers	*Tax Base*
Those who buy and resell in France.	(*a*) Total gross receipts from the sale of tangible goods. (*b*) Total gross receipts from the sale of business services bought to resell.[11]
Those whose acts are concerned with activities taxable under the business-profits tax.	(*a*) and (*b*) as above. (*c*) Total gross commissions, etc., received by brokers, etc., from the sale of their own business services.
Those subject to the mine tax.	(*a*) as above.

The full meaning of this table can not be clearly grasped without separate discussions of (*a*) the taxpayers, (*b*) the tax base.

Taxpayers: Those Who Buy and Resell. — This class includes merchants and manufacturers. The test applied here raises the difficult problem of determining the taxpayer's state of mind at a time, perhaps, long before the taxable act occurs. It makes the tax liability hinge upon the taxpayer's intent — and intent, not at the time the sale takes place and the tax may be due, but at some previous time. If a lawyer, for instance, not at all engaged in dealing in automobiles as a regular thing, sells a car, it is necessary to inquire: What was his intent when he purchased the automobile? If his primary purpose in buying it was to resell it at a profit, he is now taxable; if he bought it chiefly for personal use, and sells it merely because he wants to get a new one, or wants to get rid of the old one, he is not taxable.[12] A bank comes under the "buy and resell" clause in so far as it sells securities which it has bought with intent to sell; but in so far as it sells bills and other parts of its portfolio not originally purchased or discounted with this end in view, or securities originally purchased for investment,[13] it escapes this test. But in some cases the "buy and resell" test has not been applied in all its strictness, more especially when the sale has been only a necessary accessory of a minor nature connected with some action which by itself does not render the doer liable to the turnover tax — *e.g.*, a doctor in a village was allowed to sell his patients drugs on a small scale, there being no pharmacy at hand, without being taxable on such sales.[14]

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[11] This class of transaction — *e.g.*, a shipping agency selling railroad services to its customers — is not mentioned separately in the law, nor is it treated distinctly in this manner by French commentators. Cases falling in this class could probably be handled under classification (*c*) above. But the discussion following will show the advisability of treating these cases in this manner.

[12] Allix and Lecerclé, *La Taxe sur le chiffre d'affaires*, pp. 41, 42. It may be noted here that if he sells a luxury article (and even second-hand automobiles were formerly considered such), "at retail or for consumption," he is taxable no matter what his

A semicharitable institution — an old folks' home — was not taxed on the modest sums paid to it by its inmates partially to defray the cost of their board and lodging.[15]

Indeed, for a few years the Administration so interpreted the law as to restrict very considerably the application of the "buy and resell" test. It declared that this phrase applied only to commercial transactions, *i.e.*, those in which a profit motive figured. Thus it refused to apply the tax to consumers' coöperatives provided always that the coöperative in question was so organized that it escaped the business-profits tax. Likewise a restaurant run by a railroad at cost for its employees (*économat de chemin de fer*) was excused from taxation. Sales of real estate bought with intent to resell were not taxed (until the law of July 13, 1925) on the ground that they were "civil," not "commercial" transactions.

There seems to have been no basis in the law for such an interpretation, and though the parliamentary debates in 1920 were not clear on the point, it appears that the "buy and resell" clause was inserted purposely to catch such organizations as the consumers'

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original intent, under the special tax on sales of *luxury* articles made outside the course of regular business, levied by art. 57 of the law of June 25, 1920. Although it may be considered a part of the turnover-tax system, this tax is not treated in detail in this book, as it is of minor importance and does not affect the main current of discussion of the turnover tax. As to the nature of luxury articles, *cf. infra*, p. 267.

[13] Allix and Lecerclé, *op. cit.*, p. 42; *J.-C.F.*, Div. H, Nos. 30, 31. This distinction is indeed a "delicate" matter sometimes, as an official of the Finance Ministry remarked to the writer. Note that if the sale is made through the stock exchange, the sale on the exchange is exempt in any case. *Cf. infra*, p. 224.

[14] *J.-C.F.*, Div. E, No. 127.

[15] *Ibid.*, Nos. 18–21.

coöperatives which could not be taxed under the other test, *viz.*, performance of acts concerned with activities taxable under the business-profits tax. In 1923 and 1924 important court decisions nullified the Administration's interpretation.

Henceforth the profit motive, necessary to make the business "commercial" or "industrial" and so place it under the influence of the profits tax, was no longer needed in order that the turnover tax might be levied. Thus the first test, "buy and resell,"[16] has been made to embrace certain sales which would not be taxable under the second test.

Taxpayers: Those Whose Acts Are Concerned with Activities Taxable under the Business-Profits Tax.[17] — This second test has always included certain persons who would escape the turnover tax if the first test alone existed. In so far as a business man sells only his own services, as a broker, commission merchant, etc., he of course sells nothing that he has "bought." But brokers and commission merchants, bankers and exchange dealers, laundries and travel agencies, as well as other sellers of business services, are taxable under the business-profits tax levied in 1917. Hence they were brought under the turnover tax by the wording of this second test, and the status of all commercial and industrial sellers of service as to the turnover tax depends upon their status as to the business-profits tax.

The 1917 law which levied the profits tax gives no definition of commercial and industrial activities, but the usual practice is to rely on the list furnished by the Code of Commerce, adding to this list other actions which are sufficiently analogous.[18] The word "industrial" brings within the profits-tax sphere certain enterprises such as quarries[19] and waterworks,[20] which have not been considered "commercial."

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[16] An employee stealing goods and reselling them is probably subject to the tax, though he has not "bought" to resell! *Journal des Contributions Indirectes*, March 22, 1929, p. 155.

[17] This complicated phrasing was thought necessary to include elusive *mercantis* who buy and sell numerous articles without, however, making such a regular activity of it that they can be reached by the profits tax. *Cf.* Allix and Lecerclé, *op. cit.*, p. 41; *J.-C.F.*, Div. E, Nos. 3–5. But the interpretation put on the first test would seem to be sufficiently inclusive to allow of taxing these light-footed merchants. . . . Klotz's *projet* had only one definition of turnover-tax payers: those engaged in industry or commerce and subject to the business-profits tax. *D.P.*, 1920, *Ch.*, *S.O.*, pp. 44, 45 (No. 166).

[18] *Cf. J.-C.F.*, Div. E., Nos. 52–57, and *supra*, pp. 192–194.

Does this second test bring within the field of the turnover tax any sales of tangible objects which were not bought with intent to sell, which sales therefore escape under the first test? Apparently not. Suppose a manufacturer sells old machinery. If perchance he makes a profit on the sale, he is taxable under the business-profits tax, under the doctrine of acts "accessory to" the business of gaining profits. But, curiously enough, he is held not taxable under the turnover tax, for the sale is not sufficiently concerned with (*relevant de*) the regular business activity of running the factory.[21]

This second test is often difficult to apply correctly, for the same reasons that it is often difficult to determine whether or not a person is subject to the business-profits tax. A broker or commission merchant is subject to the two taxes; a simple salaried worker is subject to neither. In between lie the various grades of traveling salesmen. It is clear that an ordinary traveling salesman, bound to one house, unable to exercise his own initiative to any great extent, and getting all his expenses paid by his firm, should not be likened to the more independent broker or commission merchant, even if he is remunerated by a "commission" on his sales;[22] but there are certain *représentants de commerce*, salesmen who are neither simple hired workers nor entirely independent intermediaries. Unlike the ordinary traveling salesmen, they are not attached to any one house or houses, they regulate their own work, and pay their own expenses. Unlike the commission merchants, they do not act in their own names, never take a commission from the purchaser, and in general have less independence of action. They are not taxable under the commercial- and industrial-profits schedule, and hence escape the turnover tax.[23]

The same person may act as traveling salesman in some transactions, and as a *commissionaire* in others. In such cases, the tax is due only on that part of his commissions coming from the latter activities.[24]

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[19] *J.-C.F.*, Div. E, Nos. 164–167. Quarrying was declared a "commercial" act by the law of July 31, 1920.

[20] Allix and Lecerclé, *op. cit.*, p. 30.

[21] *Ibid.*, p. 42.

[22] *Cf.* the case of a bill collector, *J.C.I.*, Nov. 15, 1928, p. 596.

[23] Allix and Lecerclé, *op. cit.*, pp. 70–72, 134; *J.-C.F.*, Div. E, Nos. 152, 153. *Cf.* the protest on behalf of "*courtiers de place*," *D.P.*, 1921, *Sénat*, *S.O.*, p. 806 (No. 448).

Determining the borderline between commercial and industrial actions and those appertaining to one of the "liberal professions" gives rise to nice questions of definition. A private detective agency, for instance, is "commercial," hence subject to the business-profits tax, and hence to the turnover tax on the gross receipts received for its services.[25]

Tax Base. — Once it has been decided that the person in question is subject to the turnover tax, it is necessary to determine the exact amount upon which the tax rate should be levied. Sometimes this has to be found in the process of finding whether or not the person is subject to the turnover tax at all; but often there is no doubt that some tax should be collected, the only question being, how much? Both types of problems will be discussed below, as discussion of taxpayer and tax base can not be separated entirely, and additional light will be thrown on the question of taxpayers already treated above.

Total Gross Receipts from the Sale of Tangible Goods. — The tax is levied only on those gross receipts which are ultimately and with finality received. Thus if a sale is cancelled and the money refunded to the purchaser, or his account credited with the amount, no taxable transaction has occurred thereby. If the merchant has already paid the turnover tax in such a case, he can have his account with the tax collector credited, and the amount he has paid applies against future turnover tax due; or if he ceases to be subject to the tax, he may have the amount refunded to him. Likewise, allowance has been made for money given back to a customer who returns a container, such as a wine bottle.[26] Consumers' coöperatives are taxable only on the gross receipts received from their members minus any refunds they make to their members later.[27]

A difficult problem arises when the taxpayer, A, appears at first glance to be selling some article, when in reality he is acting merely as a channel of flow for money payment, and the only sale is from a third party, C, to A's customer, B. In certain well-defined cases of broker, commission merchant, etc., it is of course clear that the total amount of money handled by the taxpayer does not represent gross receipts from a sale by him of goods which he owns. But in other instances the case is not so clear, and the Administration has had great difficulty with taxpayers who have taken care to disguise their dealings as those of mere commission merchants whose tax base consists of their commissions only, when they were in reality buyers and sellers of the goods.

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[24] *J.-C.F.*, Div. E, No. 150.

[25] *J.C.I.*, Nov. 22, 1928, p. 606. For more details, *cf. supra*, pp. 192–194.

[26] *Arrêté* of Aug. 31, 1920, modified by *arrêté* of Feb. 28, 1926.

[27] Allix and Lecerclé, *op. cit.*, p. 127.

In other cases appearances may be against the taxpayer, although the law is in reality on his side. Thus a commission merchant, acting in his own name, even taking care that the purchaser (or seller, as the case may be) does not learn the name of his principal, may be *ducroire*, *i.e.*, guarantee his principal that the purchase price will be forthcoming from the party to whom he sold the goods, and the principal may recover the value of the goods from the commission merchant if the purchaser defaults. Yet the commission merchant has not bought and resold the goods; hence he is taxable only upon that part of the money he handles which he keeps as gross commission for his services.[28] Or the principal may ask the commission merchant to sell some merchandise for him, and set a minimum sale price, allowing the commission merchant to keep whatever he gets above that price. The fact that the commission merchant receives this *bénéfice de la survente* does not necessarily deprive him of his standing as an intermediary. Such at least appeared to be the Administration's original stand. At present, however, this question is before the courts, the Administration now claiming that such a contract is incompatible with the status of a true *commissionaire*.[29]

The *dépositaire*, a type of commission merchant who takes physical possession of the goods and guards them for his principal, is treated as other commission merchants.[30]

[28] *J.-C.F.*, Div. H, No. 213. For an even stronger case, *cf.* Allix and Lecerclé, *op. cit.*, p. 135.

[29] *Cf. J.-C.F.*, Div. H, No. 215; and *J.C.I.*, Nov. 8, 1929, p. 550.

[30] *J.-C.F.*, Div. H, Nos. 192, 193.

The same difficult question arises outside the ordinary channels of commercial middlemen. Booksellers, for instance, were formerly considered by the Administration to be only intermediaries; they owed no tax on that part of their gross receipts which they employed to pay the publisher. But this doctrine was apparently too liberal, in view of the facts, and since 1925 booksellers have been taxed on the total gross receipts from their sales unless it be clearly shown that they are acting under specific commission contracts.[31]

Does a building contractor, for instance, sell only his own service and not the materials, labor, etc., used on the job? Are the building materials sold by the supplier direct to the house owner, with the contractor merely acting as a channel of flow for the money payment? Ordinarily the answer would be no; the contractor buys both the material and labor and resells them to the house owner, in the shape of the finished product, the house (just as the manufacturer of the building materials before him had done), and he owes the tax, not merely on that part of his gross receipts representing compensation for his services, but on the total amount called for by the contract. But the facts may allow the opposite interpretation, as in the case of certain Government contracts. Here the contractor may appear to purchase the materials, but the sale is in reality direct between the supplier and the Government.[32]

An owner of a threshing machine charges a farmer 18 francs an hour for the use of his machine, if the farmer furnishes the coal; 33 francs an hour if he himself furnishes the coal. In the latter case he is taxable upon the total amount received, at 33 francs an hour.[33]

An example of a borderline case is the following: A small manufacturer, X, may receive from his client, Y, raw materials to be worked up; he may be billed by Y for the value of these raw materials (to put upon him (X) the responsibility for loss or damage in process) and when the work is done he in turn bills Y for the total value of the finished product. Yet he is taxable only upon the difference between these two bills, for he did not, in a usual commercial sense, buy and resell the material. Hence he should be taxed only on the amount representing payment for his services. But this is allowable only where he has not free disposition of the raw materials when they are in his hands.[34]

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[31] *J.-C.F.*, Div. H, Nos. 219–223. The same trouble has arisen as to druggists selling patent medicines. *J.C.I.*, April 22, 1929, p. 207.

[32] Gardes and Morillot, *L'Impôt sur le chiffre d'affaires*, pp. 137, 138. But for a recent decision holding a public works contractor taxable on the total payment received — he being considered a "buyer and seller" of labor, materials, etc., rather than an "entrepreneur ou loueur de services," taxable only on commissions — *cf. J.C.I.*, Aug. 22, 1929, p. 425. Strictly speaking, he, and contractors in general, are neither of the above. Rather, they are "loueurs d'industrie," and taxable, technically, on "commissions" or "fees." But the "commissions" or "fees" consist of the total amount of money received by the contractor.

[33] Gardes and Morillot, *op. cit.*, p. 136.

Much like this is the case of metal workers who receive scrap metal and reform it into bars, tubes, wires, etc., delivering these products to the same persons who brought the scrap metal and billing them only for the service of transformation. But the bars, etc., delivered to the customer are usually not composed of the identical scrap metal which he brought; often, indeed, bars already worked up are simply exchanged against scrap metal brought in. This is barter, and the turnover tax could be levied twice — on the value of the scrap metal, and on the value of the bars — for a barter is a "double sale."[35] But the Administration has been lenient, and taxes the metal worker only on the value of his services if the delivery of the bars follows the receipt of the scrap metal by a length of time at least sufficient to allow for the working-up. Otherwise the tax is levied on the full value of the bars.[36] This minor point shows clearly the arbitrary decisions sometimes necessary even with so "simple" a levy as the turnover tax.

The same problem has arisen with millers who exchange flour against wheat brought to them by farmers. The millers were taxed on the total value of the flour they delivered. Upon continued protest from the millers, article 30 of the law of March 19, 1928, was passed, and henceforth millers in such instances are taxable only upon the value of their services.[37]

[34] *Ibid.*, pp. 138, 139.

[35] Something close to a barter arises when A furnishes a farmer, B, with beet seed, fertilizer, and labor, deducting the value of these when he later pays B for his sugar beets. A is taxable on the value of the beet seed, etc., which he sold to B. *J.C.I.*, Nov. 1, 1928, p. 571.

[36] *Ibid.*, Dec. 1, 1928, pp. 613, 614. For current rules as to sales of precious metals in general, *cf. ibid.*, April 15, 1929, p. 194.

[37] *J.-C.F.*, Div. H, Nos. 75–81.

Sometimes part of the taxpayer's gross receipts is really repayment of a loan; indeed, many of the above instances may be regarded in this manner, but the case is clearer when the taxpayer advances money to the Government for the account of his customer, and then includes that amount in the bill. There may be a tax on the transaction (other than the turnover tax) which the purchaser is legally bound to pay, but which the seller pays for him. But if the tax is levied on the seller, he can make no deduction from his gross receipts, even though he ostensibly shifts the tax on to his customer. Thus a brewer might itemize separately on his bills the basic sale price, the heavy brewing tax he must pay, and the turnover tax, demanding from the purchaser the total of these; he must pay the turnover tax on the total amount he receives, as the two taxes in this case are due legally by him, not by the purchaser.[38]

Are intra-company transactions "sales"? Generally speaking, no, for a change of ownership must be effected before there is a sale. Company A may transfer goods to its branch in some other town, and the operation is not considered a sale; but if it transfers goods to its subsidiary (*société filiale*) which has a separate commercial existence, the result is a taxable sale.[39] Other transactions that have been held to be not sales, and hence not taxable, include: delivery of food by a storekeeper to his employees in lieu of cash, as salary payments;[40] payments by railroad companies or insurance companies in settlement of claims for goods lost, damaged, or stolen.[41]

Total Gross Receipts from the Sale of Business Services, Bought to Resell. — In defining taxable gross receipts the law speaks first of the sale of tangible goods, as noted above. The only other definition it gives of taxable gross receipts is the "amount," or "sum total" (*montant*) of brokerage fees, commissions, etc., received by agents, furnishers or renters of service, etc. Trouble in interpreting the word *montant* has arisen when the dealers in business services furnish not only services of their own, but also services rendered by a third party, which services the taxpayer, in effect, buys and resells to his client. Hence it is advisable to treat this latter case separately under the "buy and resell" classification,.though neither the law nor French commentators speak of it in this way.

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[38] *Instruction* of Aug. 29, 1920, art. III. For examples of taxes due by the purchaser, *cf. J.-C.F.*, Div. H, No. 137.

[39] Allix and Lecerclé, *op. cit.*, p. 119.

[40] There seems to be some question as to this. *Cf.* court decision cited in *J.C.I.*, Nov. 15, 1928, p. 590; also, *J.C.I.*, April 15, 1929, p. 200.

[41] *J.-C.F.*, Div. H, Nos. 37–44, 56; *cf.* also *J.C.I.*, Aug. 8, 1929, p. 368, for court decision following the same doctrine in the case of damage payments made by a dyer to a manufacturer of cotton goods, assuming, of course, the dyer does not take title to the goods.

A travel agency, for instance, may collect a flat amount from tourists, this payment to cover hotel accommodations as well as service rendered by the agency itself. It is taxable upon the total sum received by it,[42] for it has bought hotel accommodations and resold them to its customers. The hotel is taxable, too, upon the sum it receives from the travel agency. Theatre ticket agencies pay the tax on their total gross receipts if they buy the tickets outright from the theatre.[43] A contractor can not ordinarily deduct from his total receipts the amounts he turns over to subcontractors.[44] An owner of a threshing machine is taxable even on that part of his gross receipts which goes to pay wages incurred in running the machine for the farmer, unless he has clearly not contracted to furnish laborers.[45] A labor agent who agrees to furnish a third party with a number of laborers, at so much per man per hour, is considered an *entrepreneur* and taxed on the total amount of money paid to him by the third party, although he turns over most of this money to the laborers, it being understood that the third party makes no direct contract with the laborers. This is hardly a case of reselling "business services," but the courts have held it comes under the item *entrepreneurs ou loueurs de services*.[46] There is no tax on the payment by the labor agent to the laborers. A manufacturer selling F.O.B. destination can not deduct from his taxable gross receipts the sum he turns over to the railroad; [47] he is apparently considered as having bought the services of the railroad and resold them to his customer.

But if it can be shown that the taxpayer has not bought the services and resold them, but is in reality only a channel of flow for the money from his customer to the real furnisher of the service, the money he so handles is not included in his tax base. A manufacturer selling F.O.B. factory, the transportation to be at the risk of, and as directed by, his customer, may pay the railroad and recoup this amount when he bills his customer; but the only sale of service is considered to be one direct from the railroad to the taxpayer's customer, and the manufacturer owes the tax only on the sales price of the goods F.O.B. factory.[48]

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[42] Gardes and Morillot, *op. cit.*, p. 140. [43] *Ibid.*, p. 141. [44] *Ibid.*, p. 137.

[45] *Ibid.*, p. 136. [46] *J.C.I.*, Feb. 22, 1929, p. 103.

[47] Allix and Lecerclé, *op. cit.*, p. 124.

A hotel sends out the laundry of its guests, or allows them to use a telephone for toll calls, or adds 10 per cent to the hotel bill to be distributed to the help, in lieu of tipping. In each of these cases the hotel does not buy the service and resell it to its guests; it merely acts as a channel of payment, and there is only one sale in each instance — *e.g.*, by the laundry to the hotel guest. The 10 per cent tipping charge is not so clear a case, and at first hotels were not allowed to deduct from their gross receipts the 10 per cent collected for employees.[49]

If the theatre ticket agency sells tickets on a commission basis with the privilege of returning them if unsold, it pays the tax only on its commission.

A bank, buying or selling securities for a customer, can deduct from its gross commission the amount it pays the stock-exchange broker. If the bank floats a security issue, it can deduct from its gross commission the sums it pays other banks for helping in the transaction. The basis given for these decisions was that the taxpayer was in reality ordered by his customer to use the services of the broker or other banks. Nothing specific need have been said about this: there was no other way in which the taxpayer could have carried out the order, and he therefore had received implied instructions to buy these others' services.[50] But if this doctrine is to be followed in all cases, it is difficult to understand some of the other decisions noted above. The sounder view would seem to be to ask whether or not the taxpayer is buying services and reselling them — making himself responsible for proper performance — or whether he is merely acting as a broker of services, bringing buyer and seller together. From this viewpoint the interpretations cited above as to banks seem liberal indeed.

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[48] *Loc. cit.* But great care must be taken as to the exact form of the bill and the terms of sale. *Cf.* cases discussed in *J.C.I.*, Dec. 15, 1928, p. 639; Jan. 22, 1929, p. 49; April 15, 1929, p. 200; and *L'Économie Nouvelle*, June, 1928, pp. 346–349. In 1923 the Senate voted to allow deduction of transport charges from the tax base whenever they were entered separately on the bill, but the Chamber Finance Committee did not agree. *D.P.*, 1923, *Ch.*, *S.O.*, p. 1067 (No. 5913).

[49] Gardes and Morillot, *op. cit.*, pp. 139, 140.

[50] Allix and Lecerclé, *op. cit.*, p. 131; *Revue de l'Enregistrement*, Vol. 32 (1923), art. 7802, I, p. 414.

Forwarding agents who pay transportation charges out of a lump sum commission fixed in advance, were held taxable on the entire amount of the commission, until a law specifically granted them exemption on that part of their gross commission going to defray transportation and customs charges.[51] Thus almost the same [52] tax base allowed the pure *commissionaire de transport*, who deals with the railroad, etc., in his own name but upon the express orders of, and at the risk of his principal, has been allowed likewise to the *entrepreneur de service*, who deals with the carrier on his own account and assumes the transportation risks himself. But there are fine distinctions to be made between these *entrepreneurs de service* and the true *entrepreneurs de transport*, who furnish the transportation service themselves and are taxable on the full amount of money they receive — *e.g.*, a river navigation company using its own boats, or even using a third party's boats on its own lines.[53]

Total Gross Commissions, etc. — The problem is clearer when only those gross receipts representing payments for the taxpayer's own business services are considered. It merges into the one discussed immediately above.

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[51] Law of Dec. 19, 1926, art. 9. *Cf. J.-C.F.*, Div. H, Nos. 174–186.

[52] A qualification is necessary here, as in so many phases of the turnover tax. Forwarding agent A is specifically ordered to use such and such a railroad, and a certain warehouse; he charges so much for his own service, plus whatever he has to pay the railroad and the warehouse. He does not pay tax on either of these latter sums. But if he treats *à forfait*, *i.e.*, for a lump sum consideration undertakes to have the goods transported and stored (by third parties) as he thinks best, only the amount he pays out for transportation — not for storage — can be deducted from his tax base.

[53] This field offers a good example of the complexities to which the turnover tax can lead. Many of the distinctions are subtle; "the wording of the contracts is of considerable importance, and the interested parties can not be too careful about it." Gardes and Morillot, *op. cit.*, p. 147.

A broker or commission agent is taxed on the total gross commission he receives for his services, no deduction being allowed for expenses of his clerical staff, etc.

Bankers, being considered intermediaries in the flow of capital,[54] are taxed on the interest they receive, no deduction being allowed for interest paid on deposits. But if they rediscount bills at a profit, the tax is due only on the spread between the two interest rates. An investment banker floating securities may deduct from his gross commission the sums he pays to other bankers assisting him — but not the sums paid to an employee, a notary, a stockbroker, or other assistants. Underwriting syndicates pay the tax on the total commission or profit received; if the head of the syndicate stipulates that the total commission or profit shall come to him first, the subshares for other members not being definitely stated in the syndicate agreement, he owes the tax on the total gross commission and each of the members likewise owes the tax on his subshare: a species of double taxation in a case which must be carefully differentiated from the one just noted above.[55]

On the whole, bankers are treated favorably under the turnover tax. For instance, a bank buying securities to resell is taxable upon the resale. They might be taxed on the full value of the securities sold, but the Registration Administration has decided that since securities are not "merchandise" or tangible objects, the tax is due only on the profit (regarded as a sort of gross commission) realized on the sale. As the Administration has worked diligently to give a "suppleness" to the banking phase of the turnover tax, there is little trouble in its administration and little or no litigation.[56]

Other cases of dealers in their own services are clear enough to explain themselves.

In all cases the unit of the tax base is one franc, and a fraction of a franc counts as a whole franc.[57]

Origin of Tax. — A troublesome question, usually arising only when the tax rate is changed, is: At what point in its various stages does a transaction become taxable? As soon as the sale is agreed upon, or only when delivery is made, or not until payment is made? The turnover tax was intended by Parliament to be shifted to the purchaser. But suppose the rate is suddenly raised, and the new rate is declared applicable to all transactions where payment is made after the promulgation of the new law, no matter when the sale agreement was concluded. The seller may find himself burdened by a higher tax rate than he had counted on when concluding the sale agreement. Sensing this argument, the Tax Administration at first declared, in 1920, that the new turnover tax should apply only to those transactions where the sale agreement had been entered into after June 30, 1920: thus payments might be made after that date and still not be taxable, if on account of contracts concluded before July 1, 1920. But when the Administration realized how much revenue it was losing from this decision (many sales made before July 1, 1920, might call for delivery and payment stretching over a number of years after that), it about faced, and declared that delivery was necessary to make these sales *réalisées*. Therefore transactions where the sale agreement was closed before July 1, 1920, but where delivery had not taken place before that date, could be *réalisées* only after July 1 and hence were taxable. Finally the Administration agreed not to demand the tax if the sale agreement had been made before July 1, 1920, and if delivery were made before April 1, 1921 (the time of payment making no difference).[58] Seven years later this interpretation was confirmed by law.[59]

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[54] *Cf. supra*, p. 193.

[55] Gardes and Morillot, *op. cit.*, pp. 152, 153.

[56] Statement at Finance Ministry to writer.

[57] Art. 65, basic law.

There has been no consistency in the matter. In 1924, when the rates were raised, the Administration got all the revenue possible by declaring that the new rates applied to all payments made after the promulgation of the law, no matter when the sales agreements had been concluded, or delivery made. The rate raise of April, 1926, on the other hand, was by the law itself not applicable to contracts closed before March 31, 1926, provided delivery were made before June 30, 1926. However, the rate changes of August 3, 1926 (partly up, partly down), declared the Administration, were applicable to all payments — or debits, in certain cases — made after July 31, 1926. In the light of these shifts it seems rather futile to discuss whether the turnover tax has its origin in "sales," "payments," "deliveries," or "performances." The basic fact remains: if there is no payment eventually, there is no tax.

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[58] Allix and Lecerclé, *op. cit.*, pp. 109–117, 145; also *J.-C.F.*, Div. K, Nos. 60–72, and Div. H, Nos. 57–68. Allix and Lecerclé favor the agreement of sale as the test for *réalisée*, but note that the Administration has not receded from its basic opinion that the payment of the purchase price is the true criterion. But what view will the Administration take if the tax rates are revised *downward?*

[59] Law of Dec. 27, 1927, art. 26. *Cf.* Administrative *Instruction* No. 344, Jan. 14, 1928.

Wholesalers, and in special cases retailers, may be considered as "receiving payment" the moment they debit their customers on their books. This has been allowed in order that their bookkeeping methods may not be upset by the tax rules.[60]

Imports. — At the same time the turnover tax on domestic sales was levied, there was imposed a compensatory import tax of the same rate on practically all goods entering France, whether or not as a result of a sale. This is discussed in a later section.[61]

Exemptions. — Exemptions from the turnover tax may be grouped into two classes: those which are not mentioned specifically, but which result from the wording of the law; and those which exist only because they are mentioned specifically in the law.

Implied Exemptions. — Certain important classes of money payments are not touched by the turnover tax. These include all payments not resulting from a sale of goods or services, but also include payments that do spring from sales.

The most important of the latter class are the payments made to farmers for produce or animals raised on their own land. For such payments, farmers escape the first test noted above — "buying and reselling" — because one who raises something from the soil, or extracts it therefrom, is not considered as "purchasing" the crop or materials or animals. They escape the second test because their profits are taxable, not under the commercial and industrial schedule of the income tax, but under a special farm-profits schedule.

Of course a farmer may run afoul of the turnover tax by stepping out of his proper rôle of cultivator of the soil or animal raiser. Thus a sugar-beet grower who does not content himself with raising and selling his beets, but extracts the sugar from them, is taxable on the sale of his sugar.[62] Likewise a wine grower who turns merchant to the extent that he buys grapes someone else has raised and sells them (or the wine from them) is taxable on such sales.[63] But a rather lenient interpretation has been placed on the general doctrine, to this extent: a farmer may transform products of his lands and animals and still escape the tax if he confines himself to what are ordinarily considered "agricultural operations," closely linked with farming as such — provided he does not go about it too elaborately. Thus a farmer may transform his milk into butter or cheese, his apples into cider, or his grapes into wine, and sell the butter, cheese, cider, and wine without paying the tax. But if he uses much machinery or a large working force in the process, or if he branches out into such "agricultural-industrial" operations as the sugar-beet manipulation mentioned above, he becomes liable to the commercial- and industrial-profits tax, and hence to the turnover tax, on the sale of such products.[64] Notice that the grape grower who sells wine made from grapes he has purchased, remains free of tax on that part of his total sales which may come from grapes that he himself has grown.

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[60] Allix and Lecerclé, *op. cit.*, p. 118.

[61] Chap. XIII.

Naturally this effort to distinguish between pure farming and other operations has led to some rather harassing problems for both taxpayer and tax collector. Suppose a farmer buys a young pig, fattens it wholly on produce grown from his own land, and sells the hog when it is mature. Has he "bought to resell"? The doctrine is, no; but if he had fed the hog to any considerable extent on feed purchased from someone else, he would have been liable to the tax.[65] The oyster farmer is free of tax if he tends his charges from their infancy to their maturity in his own oyster beds, but if he buys them only when they are ready to be eaten, and sells them again, the tax is due.[66]

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[62] *J.-C.F.*, Div. E, Nos. 88–96. Or if he sells sugar which he has received in exchange for his beets. *J.C.I.*, Oct. 22, 1928, p. 557.

[63] *J.-C.F.*, Div. E, No. 100.

[64] Allix and Lecerclé, *op. cit.*, p. 60.

[65] *Ibid.*, p. 59; *J.-C.F.*, Div. E, Nos. 103–107, 110. He has since been freed from the turnover tax for certain animals, since the special *taxe d'abatage* has been introduced. *Cf. infra*, p. 280.

[66] *J.-C.F.*, Div. E, Nos. 111, 112.

Another group of payments escaping the turnover tax consists of fees, etc., coming to people who belong to the so-called liberal professions, who do not "buy and resell" and are taxed, not under the commercial and industrial schedule of the income tax, but under the non-commercial-income schedule. Thus doctors, lawyers, artists, heads of schools, and others of like nature are exempt. But, like the farmers, they must take care or they may find themselves performing commercial acts and so taxable under the profits schedule and the turnover tax. A doctor who runs a sanatorium escapes unless a considerable part of his profits comes from furnishing board and lodging to his guests; in the latter case the turnover tax strikes his total receipts from the sanatorium.[67] A trade school may sell the products of its students free of tax only so long as such products have been made chiefly for the purpose of instructing the students.[68]

Still another exempt group consists of salary or wage payments. Those who work for wages or a salary are taxed under the labor-income schedule of the income tax. These payments are taxed indirectly, for of the gross receipts of the business man, a part is turned over to others as wages and salaries. The case of the threshing-machine owner cited above [69] brings this out clearly.

Other examples of exemption from the tax, because the recipients of the payments neither buy and resell nor perform acts capable of being taxed under the profits schedule, are: mutual bonding societies, and certain "banques populaires" formed in accord with the law of March 13, 1917; certain building societies formed to provide cheap housing for the poor (*sociétés d'habitations à bon marché*); certain real-estate credit societies; coöperative workers' banks; and others.[70]

By French law either a corporation, or a stock partnership (*commandite par actions*) is held to be "commercial" even if it is engaged in some operation — *e.g.*, agriculture — which is not considered commercial when performed by an individual or an organization other than one which issues stock. It would seem to follow that any stock-issuing organization would be liable to the commercial- and industrial-profits schedule and hence to the turnover tax, no matter what it did. The Administration has taken this view as regards a corporation of doctors, but has refrained from applying the doctrine to corporations engaged in agriculture or dealing in real estate.[71]

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[67] *J.-C.F.*, Div. E, Nos. 128–138.

[68] *Ibid.*, No. 124.

[69] *Cf. supra*, p. 210.

[70] For a complete list, *cf. J.-C.F.*, Div. E, Nos. 65, 66.

Express Exemptions. — These are more numerous than those which existed under the 1918–1920 payments taxes. The basic law provided for twelve such exemptions. These will be discussed here, the exemptions that came later being considered in the subsequent sections on the chronological development of the tax.

The twelve exemptions allowed by the basic law (article 60) may be put into three general groups: the exemption of exports, the exemption of certain goods and services the sale price of which is fixed by the Government (thus making it impossible to shift to the consumer, through a rise in prices, any tax levied on sales of such goods and services), and the exemption of certain goods or transactions already subject to special taxes, and which, it was feared, would be unduly burdened were the turnover tax superimposed.

Exports. — Transactions of sale, commission, or brokerage concerning objects exported are exempt from the turnover tax by article 72 of the basic law. Exception was made concerning certain luxury articles which were taxed upon exportation; this régime lasted for but a short time. Antiques and certain works of art are still taxed upon exportation.[72] For a short time during 1926–1927 a general export tax was levied, but it no longer exists.[73]

The exemption concerning exports applies only to the "last sale made in France." In effect, this means the sale made by someone in France to a purchaser located abroad. The seller located in France benefits by the exemption only if he still has title to the goods as they leave France. Thus Frenchman A may sell to Frenchman B, delivery to be made abroad, the goods to be sent to B's foreign address; the sale is exempt. But if A, acting on B's orders, sends the goods to a foreigner C to whom B has resold the goods, the sale from A to B is taxable, and the one from B to C is exempt; it makes no difference if A handles the details of exportation for B's account, so long as the transfer of title from A to B has occurred in France, and B is the owner of the goods as they leave France.

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[71] *Ibid.*, Nos. 72–79. Real-estate dealers have been specifically brought under the turnover tax by the law of July 13, 1925. *Cf. infra*, p. 258.

[72] *Cf. infra*, p. 307.

[73] *Cf. infra*, pp. 307–312.

The actual export must follow the sale to one abroad within a reasonable time, as determined by commercial usage.[74]

Certain modifications of this doctrine have been admitted by the Administration, to fit special cases. Thus, suppose a French business man sells his goods to a branch purchasing office of a foreign buyer, this branch office being located in France. The sale is held not taxable; the legal fiction is adopted that the branch office is acting merely as commission agent for the foreign buyer, so that the only real transfer of title is from the French business man direct to the foreign buyer resident abroad, and this sale, of course, is exempt. The law has also been stretched to exempt sales of articles of fashion, etc., made to foreign commercial buyers visiting France for this purpose; and sales where the French seller does not himself export the goods at once, but hands them over first to undergo a finishing process in France before they are to be shipped abroad.[75] These are all special exceptions, however; the American tourist, for instance, purchasing goods to bring back to the United States, finds that the French merchant must pay the tax on the sale, through application of the general rule that the exemption applies only to sales made to someone located abroad.[76]

Goods and Services with Government-Fixed Prices.[77] — (*a*) Bread. Sales of bread are exempt. This applies in general only to bakers, however; thus, sale of bread by a restaurant, *e.g.*, is taxable along with the other sales made by it.[78] The main reason for exempting bread appears to have been a desire to avoid taxing such a necessity of life; in addition, however, local authorities in certain cases have the power to fix its sale price.[79] The exemption applies, however, even in those localities where no price fixing is done. It does not extend to pastries, biscuits, etc.[80]

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[74] *J.-C.F.*, Div. U, Nos. 18–23; *J.C.I.*, May 1, 1928, p. 246; Aug. 1, 1928, p. 411. A nice problem arises when A, in France, sells to B, located in Belgium, but sends the goods, on B's orders, to C, in Switzerland, to whom B had resold the goods. Probably A owes no tax on his sale to B. *J.C.I.*, Feb. 15, 1929, p. 91.

[75] *J.-C.F.*, Div. U, Nos. 24–39. This last provision, at least, expresses the sentiment of Parliament. *Cf. D.P.*, 1923, *Ch.*, *S.O.*, p. 1073 (No. 5913).

[76] *Cf. J.-C.F.*, Div. U, Nos. 102–108. The French merchant can not claim exemption even if he sends the merchandise to the tourist on board the latter's homegoing boat. He would have to address the package to the purchaser at the latter's foreign address, and put it in the hands of the transportation company. Automobiles of French make may now be sold to foreigners in France, and driven by the latter for a short time before being taken out of the country, free of tax. *J.C.I.*, Aug. 22, 1929, p. 425.

[77] Save where otherwise noted, the exemptions in this class and under "Transactions Already Subject to Special Taxes" are provided for in art. 60 of the basic law.

(*b*) State Monopolies. The State distributes its tobacco, matches, and, to some degree, its stamps through private retail outlets. These retail dealers, who are usually likewise engaged in selling, *e.g.*, wine, pay no turnover tax on that part of their gross receipts coming from the sale of Government products. The law speaks in general terms, exempting transactions the object of which is the sale of State-monopolized goods. Thus sales of certain kinds of powder, and the receipts from the State's telephone, telegraph and postal system, are exempt; but the sale of wood to State match factories, for instance, does not come under this exemption.[81]

(*c*) Public Utilities. The rates which all the railroads and many electric light and power companies and waterworks may charge the public, are fixed by the State or local authorities. Revenue from these rates is exempt from the turnover tax; the law speaks in general terms of business done by those who operate public-utility concessions (*services publics concédés*) at rates fixed by the Government (*tarifs fixés ou homologués par l'autorité publique*).[82] This exemption does not extend to businesses which are subventioned by the State, but which are essentially private enterprises (*e.g.*, certain air transport lines receive aid from the State on condition that their rates are approved by it; they are not exempt from the tax).[83] Also, the exemption applies only to revenue arising from the Government-fixed rates. A railroad, for instance, selling its excess power is taxed on such sale.[84]

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[78] Allix and Lecerclé, *op. cit.*, p. 88.

[79] For a short time during 1920–1921, grain destined for bread, the flour made from the grain, and the by-products (refuse grain and bran) were subject to a price-fixing régime, and the Administration (*Instruction* of Aug. 29, 1920, art. II) exempted sales of these commodities from the tax. This exemption ended with the abandonment of the price fixing (*J.-C.F.*, Div. J, No. 22), but as concerns certain grains, was later restored by law. *Cf. infra*, p. 255.

[80] Allix and Lecerclé, *op. cit.*, p. 88; *i.e.*, breadstuffs containing other than flour, water, and salt. *J.C.I.*, May 1, 1929, p. 226.

[81] *J.-C.F.*, Div. J, Nos. 38–41.

[82] For other specific examples, *cf. ibid.*, No. 53.

[83] *Ibid.*, No. 58.

(*d*) Commissions Limited by Law. The commissions or fees which may be charged by stockbrokers, ship brokers, marine insurance brokers, and some others in similar professions are fixed by the Government, through laws or decrees. Such commissions and fees are exempt from the turnover tax. The Administration has decided that this exemption also includes such banking institutions as the Land Bank, real-estate loan societies, and mutual-agricultural-credit societies (*le crédit foncier, les sociétés de crédit immobilier, les caisses de crédit agricole mutuel*) whose interest rates are fixed by law.[85] Here too may be placed the exemption which was accorded bankers by the Finance Minister as to: (*a*) the commissions which they received from the State for selling *Bons de la Défense Nationale*, (*b*) the amount they received for discounting these short-term bonds.[86] This exemption has recently been discontinued by the Finance Minister.[87]

Laws authorizing large long-term loans have a *clause de style* exempting from the turnover tax commissions allowed to intermediaries of all sorts who aid in placing the loans.[88]

Transactions Already Subject to Special Taxes. — (*a*) Stock and Commodity Exchanges. A special tax is levied on transactions on the stock exchange, and such sales are exempt from the turnover tax. Hence the security holder may dispose of his stocks and bonds on the exchange and pay no turnover tax on the money he receives, even though he had bought the securities "with intent to resell." Likewise the broker who carries out the order (*agent de change, coulissier, trésorier-payeur général*) is exempt as to his commission [89] (if he is a member of the regular exchange — *agent de change* — whose commission is fixed by the Government, he is exempt in any case under the clause noted above).[90]

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[84] *J.–C.F.*, Div. J, No. 66.

[85] *J.–C.F.*, Div. J, No. 75. *Cf. D.P.*, 1921, *Ch.*, *S.E.*, p. 9 (No. 3180).

[86] (*a*): Ministerial decision of Oct. 18, 1920, noted by Allix and Lecerclé, *op. cit.*, p. 106; (*b*): Ministerial decision of Dec. 19, 1923, with retroactive effect. *Cf. ibid.* and *J.–C.F.*, Div. J, No. 229.

[87] Ministerial decision of June 14, 1928, noted by *J.–C.F.*, Div. J, No. 229.

[88] *Ibid.*, Nos. 227, 228.

[89] *Ibid.*, No. 81.

[90] *Cf.* also *supra*, p. 216.

Likewise, a special tax is levied on sales on the commodity exchanges (*e.g.*, grain, sugar, coffee, oils, cotton, wool) made by those who habitually carry on this activity. It is customary, of course, for the same thing to be sold over and over again, before a "final" sale is made and the purchaser actually surrenders the warehouse receipt and takes delivery of the commodity. The special tax is not levied on this last sale, which is thus not exempt from the turnover tax. But how does the seller know whether or not his purchaser intends to take actual delivery? He must know, in theory, to determine whether he is struck by the special tax or by the turnover tax. In practice, this impossible situation has been remedied by the first seller of the commodity paying both the turnover tax and the special tax, the last seller paying nothing. The Administration, however, can not demand the turnover tax from the first seller; it can only hope the custom will be generally observed.[91]

(*b*) Pharmaceutical Specialties. Medical preparations which are publicly advertised, and bear a fixed retail price printed on the package,[92] are subject to a special tax of 12 per cent, levied only on the manufacturers and importers. These manufacturers and importers are exempt from the turnover tax; wholesalers or retailers, of course, are not exempt.

(*c*) Savings Societies and Insurance Companies. Certain savings societies (*sociétés de capitalisation*) and all insurance companies are subject to special taxes. Payments received by these bodies are not touched by the turnover tax.

(*d*) Amusements. The sale of tickets to theatres, concerts, music halls, bicycle races, and all receipts taken in at moving-picture theatres, dances, balls, billiard matches, and bull fights [93] are subject to special indirect taxes. In so far as they are so subject, they are exempt from the turnover tax.

(*e*) Vehicular Passenger and Freight Traffic. Receipts from carrying passengers or freight in automobiles (*e.g.*, taxicabs,[94] delivery trucks), or passengers in animal-drawn vehicles (*e.g.*, *fiacres*) are subject to special indirect taxes, and are exempt from the turnover tax.[95]

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[91] *J.-C.F.*, Div. J, Nos. 95–99. If a sale on such an exchange is made by one not liable to the special tax (*i.e.*, one who does not habitually engage in such transactions), the turnover tax is levied, but is reduced to the rate of the special tax. Art. 60 of basic law.

[92] *J.-C.F.*, Div. J, No. 104.

[93] This list is indicative only, not exhaustive. *Cf. ibid.*, Nos. 120–125.

[94] *Cf. J.-C.F.*, Div. F, No. 128.

Not all activities subject to special taxes are exempt from the turnover tax. Many transactions (*e.g.*, concerning wine, alcohol, salt, sugar, oils, vinegar) were and still are specially taxed under *contributions indirectes*, but no relief has been given them under the turnover tax.

(*f*) Newspapers and Periodicals.[96] These were granted special favor shortly after the basic law was passed.[97] If the sale price per copy in no case exceeds 50 centimes (formerly, 25 centimes) [98] the proceeds from subscriptions and other sales of copies are exempt from the turnover tax, by article 13, law of July 31, 1920. This applies both to retail sellers and the publication house itself.[99]

On the whole, this list of exemptions was not enlarged greatly after 1920 (save in the cases where replacement taxes were substituted for the turnover tax),[100] and none of them has been repealed.

Payment of the Tax. — The turnover-tax law has abolished the use of stamps, which had been allowed under the payments taxes, and depends on a monthly-payment system.[101]

Each month the taxpayer draws up a statement of his turnover for the preceding month, calculates the tax due, and sends the statement and the money to the Administration. The departmental director of the Administration receiving the payment divides the taxpayers into categories, and fixes, for each category, the period of the month during which the statement and tax payment are due.[102]

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[95] Since the transportation of freight by horse-drawn vehicle is not subject to a special tax, receipts from this activity are subject to the turnover tax. Hence anyone who transports freight by both horse-drawn vehicle and truck must divide his receipts for tax purposes, one part being exempt, the other taxable! *J.–C.F.*, Div. J, No. 143.

[96] Administrative decision noted, *ibid.*, No. 221, indicating that *entreprises de journaux* includes all publications appearing regularly.

[97] *Cf.* Allix and Lecerclé, *op. cit.*, pp. 100–105, on the debatable question as to whether the law ever covered newspaper publishers at all (they are "non-commercial" enterprises); Thaller, *Traité élémentaire de droit commercial*, p. 20; also *J.–C.F.*, Div. J, Nos. 213–219. The exemption originated in *D.P.*, 1920, *Ch.*, *S.O.*, p. 2106 (No. 1412).

[98] Changed by law of Aug. 3, 1926.

[99] Reply by Finance Minister, cited by *J.–C.F.*, Div. J, No. 226.

[100] *Cf. infra*, pp. 283–286.

[101] Law of June 25, 1920, art. 67. Detailed regulations were drawn up in the *décret* of July 24, 1920.

Modifications of this general rule for: (*a*) sending in the statement, (*b*) making payment, have been so numerous, sometimes without keeping step with one another, that it is well to consider each of these duties separately.

The Statement. — The statement sent in must give the monthly total for each class of taxable [103] receipts, distinguishing, that is, among those taxable at different rates, and between receipts from sales and receipts from commissions, fees, interest, etc.

Certain businesses were for a while allowed to send in statements once every three or six months (banks) [104] or once a year (freight shippers, publishers, import and export commission merchants),[105] or once every six months or every year (street hawkers).[106] This did not excuse the taxpayer from sending in monthly payments "on account." This special privilege, as granted to these types of firms only, was abolished in 1923 when a new régime of annual statements for all taxpayers with a permanent place of business was established.

Another class of taxpayers was — and still is — exempt from the monthly-statement requirements. These are the small business men admitted to the *forfait*, or estimated-tax-base, régime, to be discussed below in connection with the payment requirements. They had to submit only a statement of annual turnover,[107] and at present (owing to the changes introduced in 1924) [108] need submit no statement at all.

If the taxpayer happens to do no business on which the tax is due, during the month, he sends in a *certificat négatif*, attesting this fact.[109]

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[102] *Décret* of July 24, 1920, arts. 13, 15.

[103] *J.-C.F.*, Div. P, No. 31, citing statement by Finance Minister. But for special rules governing sales for export, *cf. infra*, p. 231.

[104] *Arrêté* of Aug. 31, 1920.

[105] *Arrêtés* of Sept. 17, 1920. Another *arrêté* of this date excused members of certain coöperative selling organizations from sending in monthly statements of their sales made through the organization. The organization, however, had to make monthly statements itself for the whole group.

[106] *Arrêté* of Oct. 30, 1920. All these *arrêtés* were based on the *décret* of July 24, 1920, art. 11, which in turn was based on the second section of art. 67 of the basic law.

[107] *Décret* of July 24, 1920, art. 19.

[108] *Cf. infra*, pp. 250–253.

As noted above, sales which are annulled after being entered on the taxpayer's books as "payment received" are of course not taxable.[110] In the monthly statement, these sales should be shown for purposes of record, with the notation *pour mémoire*. If the sale is cancelled after the taxpayer has paid a tax upon it, he should attach to one of his monthly statements a complete record of the transaction.[111]

The Payment. — The ordinary rule is that payment of the tax on the preceding month's receipts must be made at the same time the statement is sent in.

Where the statement was not demanded every month, in order to avoid inconvenience to certain businesses which did not reckon up their accounts monthly (banks, freight shippers, publishers, import and export commission merchants, street hawkers),[112] payment "on account" nevertheless had to be made every month, with a definite settlement at the end of the three-, six-month, or yearly period. Thus a bank which chose to send in a statement every six months, had to pay each month a sum equal to one-seventh of the tax it had paid during the preceding six months, and at the end of the period, when it sent its statement in and the exact amount due was known, it either paid the Treasury the balance or applied against future tax payments any excess it had paid. This system was altered in 1923.[113]

Much more important was the system of quarterly or annual payment (and annual statement, as noted) which was started under the name of *forfait*.[114] This was rather a misnomer, as *forfait*, in French tax language, usually indicates a régime whereby the tax base is estimated by external signs rather than reckoned accurately, and its purpose is generally to excuse the small taxpayer from investigation of his business accounts by the tax collector, which investigation is, of course, necessary if there is to be any check on a supposedly accurately calculated tax base. Such a system was indeed developed in 1924,[115] but in 1920 the taxpayer still had to keep an accurate record of his receipts, and permit inspection of this record by tax agents.[116] What he did get by the so-called *forfait* régime was permission to send in a statement only once a year (every January) showing his receipts for the preceding year. The tax collector, with this information at hand, fixed what he thought would be a proper amount of tax for the current year, and notified the taxpayer, who paid this amount in quarterly installments (or all at once, if he so chose).[117]

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[109] *Décret* of July 24, 1920, art. 10.

[110] *Cf. supra*, p. 208.

[111] *Décret* of July 24, 1920, art. 16.

[112] *Cf. supra*, p. 227.

[113] Business circles seem to favor this provisional payment system. *Cf.* Chambre de Commerce, Paris, *Bulletin*, 1921, p. 1124.

[114] *Décret* of July 24, 1920, art. 19, based on art. 67 of the basic law.

This *forfait* régime was open only to those whose annual turnover did not exceed 48,000 francs (or 12,000 francs if they were intermediaries, taxed on commissions, interest, etc.).

There are various methods of remittance allowed. The taxpayer may take his cash and statement in person to the office of the collector. In some communes, where no tax bureau is located, the collectors come around sometime during the month and hold a collection day at the mayor's office, or even call at the taxpayer's place of business, or at his home. Sometimes, indeed, in the sparsely settled districts, the collector does not get around to some of the smaller taxpayers more than once every two months or so, and the Administration has held that in these cases the taxpayer may await such visits, and need not mail in a statement and payment every month.[118] But this is an exceptional allowance; usually, if the taxpayer does not make personal contact with the collector each month, he sends in his statement by mail, together with payment in the form of cash, or some form of postal money order (*chèque postal*, *mandat-poste*, *mandat-carte*, *virement au compte de chèques postaux* of the collector), or by check (*chèque barré* to be deposited with the Bank of France) if the payment exceeds 100 francs, or by draft (*traite*) issued by the Administration under certain circumstances.[119] A receipt must be given by the Administration; this is in some cases subject to a light stamp tax which the taxpayer must bear.[120]

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[115] *Cf. infra*, pp. 250–253.

[116] It appears that Parliament intended, even in the 1920 law, to relieve the *forfait* payers from the obligation of keeping a book of sales. *Cf. D.P.*, 1920, *Ch.*, *S.O.*, p. 1658 (No. 1032), report of Finance Committee. But the Administration refused so to interpret the law.

[117] Statement of Finance Minister, cited by *J.–C.F.*, Div. Q, No. 165.

[118] Statement of Finance Minister, cited in *J.–C.F.*, Div. P, No. 44.

Up to July 18, 1923, payment could also be made by setting off the tax against payments due from the State on account of war damages.[121]

Means of Control. — Since the turnover tax is essentially a self-assessed tax (even under the *forfait* régime), the Administration must have ample means of checking up on the taxpayer's statements, both because of simple ignorance and because of fraud. Such means of control have been developed, and may be divided into three groups: (*a*) the requirement that anyone coming under the tax for the first time must make himself known to the Tax Administration within two weeks unless he is already on the income tax rolls,[122] (*b*) the duty of the taxpayer to make an entry of each taxable sale and preserve the books in which such entries are made, (*c*) the right of the Administration to inspect not only these books but other commercial memoranda of the taxpayer, and certain records of the transportation and communication services. The second and third requirements deserve detailed attention.

The taxpayer, if he does not already keep books which show clearly enough his receipts from sales (*i.e.*, a cash book, or an invoice record, along with a sales book),[123] must enter each sale or receipt of commission, fee, interest, etc., in a special book.[124] Each entry must show the date, name of the thing sold or service rendered, and price. In addition, if any sale is for more than 500 francs the entry must show the name and address of the buyer if this latter is a *commerçant.* This book, or the ordinary books that take its place, as well as practically all commercial documents, including notably the bills for purchases,[125] must be kept for three years from January 1 of the current year.[126]

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[119] *Décret* of July 24, 1920, art. 15. For details concerning *traites*, *cf. arrêté* of Sept. 14, 1920, and April 7, 1924. The trend is now away from cash payments, toward payment by check, etc. *J.C.I.*, Jan. 22, 1929, p. 47; Feb. 15, 1929, p. 85.

[120] For details, *cf. J.-C.F.*, Div. P, No. 62. Note the complaint given *supra*, pp. 88, 89.

[121] *Ibid.*, No. 52, citing laws of April 17, 1919, art. 46, and July 18, 1923.

[122] *Décret* of July 24, 1920, arts. 1–4. Itinerant peddlers, whose names are not inscribed upon the *registre de commerce*, must obtain a *carte de commerce*, which necessitates deposit of a sum sufficient to guarantee payment of the turnover and profits taxes. The *carte* must be renewed every three months. For details, *cf. J.-C.F.*, Div. P, Nos. 178, 198–205; and *D.P.*, 1921, *Ch.*, *S.E.*, pp. 282–284 (No. 3494).

[123] *Instruction* of Aug. 29, 1920, art. 5.

[124] Art. 66, basic law.

The burden of bookkeeping on the small merchant is lightened somewhat by allowing cash sales of under 100 francs each to be merely lumped in a total at the end of the day. But if a luxury article is sold, no matter how small, a separate entry must be made for it.[127]

The above means of control are at present lacking, as regards the great majority of turnover-tax payers, since the establishment in 1924 of the true *forfait,* or estimated-tax-base, system, under which no record of sales need be kept.[128] But under the 1920 law, even the so-called *forfait* taxpayers had to keep such a record.[129]

Sometimes even sales that are exempt from taxation must be carefully recorded. Sales made directly for export, for example, are exempt; but the seller must keep a special record of these transactions, so that the Administration may check up with the customs records to see that the exportation actually occurred. The invoice accompanying the exported goods must contain certain information that will serve to aid in this check-up, and in the case of precious stones, jewelry, etc., the seller must usually present a "certificate of export" given by the customs, in order to claim exemption from the turnover tax.[130]

Likewise, sales of coal between coal producers are exempt from both the turnover tax and the special "production tax," but the seller must submit proof of the nature of the buyer, in much the same fashion as is required for sales of luxury articles between *commerçants* if the luxury rate is to be avoided.[131] Similar requirements obtain in the case of sales of pyrites and bone to a manufacturer of superphosphates, and sales of fertilizers between manufacturers.[132]

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[125] *J.-C.F.*, Div. P, Nos. 93, 96, 99, 101 (citing statement by Finance Minister).

[126] The regular books which every *commerçant* is supposed to keep, should be preserved for ten years. *Cf. J.-C.F.*, Div. P, No. 16. Indeed, in some cases the taxpayer may be wise to preserve his books thirty years! *Ibid.*, No. 108.

[127] *Cf. infra*, p. 269.

[128] *Cf. infra*, p. 250–253.

[129] *Cf.* comment in *D.P.*, 1922, *Sénat, S.E.*, p. 52 (No. 624).

[130] For further details, *cf. J.-C.F.*, Div. U, Nos. 81–101.

[131] *Cf. infra*, p. 269.

Inspection by the fiscal agents is allowed in rather broad terms.[133] The taxpayer is required to furnish all information which is necessary for determining the size of the taxable turnover.[134] Concretely, this means the agent can inspect, and copy from, the cash book, the sales book, the invoice record, the letter file, the inventory list, the bill files, originals or copies of contracts, cash register rolls, records of purchase, etc.[135] Inspection can be made both by the Direct-Tax Administration, and the Administration directly concerned with levying the turnover tax.

For those whose annual turnover exceeds 50,000 francs this control is reinforced by the law of July 31, 1920 (article 32), which provides that such *commerçants* must show all the books required by *titre* II of the Code of Commerce, as well as all annexed books and documents, papers showing receipts and expenditures, etc., to any agent of the Administration who is a *contrôleur* or *inspecteur adjoint* or of higher rank. The law is cast in general terms, "to permit control of tax declarations and search for omissions or frauds." [136]

No one escaped the above provisions for investigation — not even the small merchant who chose the *forfait* system. At present, however, under the true *forfait* régime, taxpayers receiving less than 300,000 francs per year from sales, or 40,000 francs in commissions, etc., are totally exempt from such investigation.[137]

There may be noted here the right of the tax agents to inspect the freight registers of the railroad stations (so that they may find how much merchandise the taxpayer has purchased, presumably to resell).[138]

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[132] For details, *cf. J.-C.F.*, Div. J, Nos. 186–189.

[133] Art. 67, basic law. For minute details on the rights of the Administration in investigation, *cf. J.-C.F.*, Div. P, Nos. 112–134.

[134] But this would not include, *e.g.*, the balance sheet of a bank. *J.-C.F.*, Div. P, No. 97, citing Chamber debates.

[135] *Instruction* of Aug. 29, 1920, art. VI; *J.-C.F.*, Div. P, No. 99. Such inspection can be made with a view to checking up on some other taxpayer, who, *e.g.*, sells to the taxpayer whose books are being inspected. *J.-C.F.*, Div. P, No. 153, citing statement of Finance Minister.

[136] *Cf.* Allix and Lecerclé, *op. cit.*, p. 269; *supra*, p. 49.

[137] *Cf. infra*, p. 251.

[138] *J.-C.F.*, Div. P, No. 103.

Fines and Other Penalties. — The penalties imposed by the basic law of 1920 (articles 68–70, 110)[139] were severe. But in practice they were not so harsh as it might appear from the provisions of the law. The Administration can arrive at a compromise (*transaction*) with the taxpayer, to gain his good will, or the taxpayer himself may appeal to the Administration for relief (*remise gracieux*). Apparently the penalties laid down in the law are rarely enforced to the full;[140] indeed, one authority notes the Indirect-Tax Administration's habit of threatening the taxpayer with most dire results, and then hastening to arrive at a compromise on the penalty, so that the matter need not be contested in the courts.[141]

As will be noted farther on, even ignorance or unskillfulness at interpreting the law, coupled with good will, is in principle no excuse for the taxpayer.[142] Under these conditions it is not to be wondered that the penalties given in the law are in practice maximum limits, rather than obligatory lines of action for the Administration.

Four kinds of offense concerning the turnover tax may be distinguished.

(*a*) Delay in Payment. By the 1920 law, delay in payment of part or all of the tax subjected the guilty one to a fine of 100 per cent of the tax due, for each month or fraction of month of delay. Thus a business man who in good faith believed himself exempt from the tax, but who was checked up, say, a year later by the Administration, would owe in addition to the tax due, a fine of 12 times the tax due for the first month, 11 times that due for the second month, and so on — that is, such a penalty could legally be laid upon him if the Administration so desired. In any case, the minimum was fixed at 1,250 francs.[143] If the taxpayer had fraudulently tried to avoid payment, he could be penalized by an additional fine of from 1,250 to 6,250 francs.[144] These penalties were recast in 1923.[145]

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[139] Details of application were later laid down, in the *décret* of July 6, 1922.

[140] Interview at Finance Ministry by the writer. *Cf.* also statement of Finance Minister, Sept. 21, 1923: "To the same degree that the repression of fiscal fraud must be severe, when it is a question of violators whose bad faith is certain, or whose ill will is evident, so, on the contrary, is the greatest moderation necessary toward taxpayers guilty only of ignorance, or occasional negligence." Cited by *J.–C.F.*, Div. RS, No. 38. Indeed, the Administration may refrain from levying any fine at all (save in the case of the *indemnité de retard* instituted in 1923 — *cf. infra*, p. 246), when the taxpayer shows no bad faith. Note of Administration, May 31, 1923, cited in *J.–C.F.*, Div. RS, No. 39.

[141] *J.–C.F.*, Div. RS, Nos. 3, 106.

[142] *Cf. infra*, pp. 237, 238.

(*b*) Refusal to Show Books. As has been noted,[146] the tax agents have the right (save as concerns those taxpayers under the *forfait* régime of 1924) to inspect the taxpayer's books and commercial papers. Refusal to allow this is penalized by a fine of from 625 to 6,250 francs;[147] and the law of July 31, 1920, article 32, raises this to 1,250–12,500 francs, for cases falling under that law.[148] In any case there must be levied an additional fine of 100 francs[149] for each day's delay following the tax agent's formal request. These fines have not been altered.

(*c*) Infractions Not Depriving Treasury of Tax Receipts.[150] The simple omission of some duty which does not deprive the State of revenue could be punished by a fine of 1,250 francs. The Administration has shown leniency toward offenses of this nature, not demanding the full fine as laid down in the law.[151] Such offenses, for example, might take the form of failing to keep a properly detailed list of sales, failing to record the name of a *commerçant*-purchaser if the sale were for more than 500 francs, etc. These provisions were not essentially altered in 1923.

(*d*) Intentional Second Offense.[152] If two similar[153] infractions are committed within three years, and the second one is intentional, the Administration can hale the offender before a *tribunal correctionnel* to be punished by imprisonment of from eight days to three months.[154] Widespread publicity can be given to the offense. It appears that imprisonment has rarely, if ever, occurred.[155]

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[143] Art. 68, basic law, fixed this minimum at 1,000 frs., but by art. 110 of the same law, this was raised to 1,250 frs. *Cf. Instruction* of Aug. 29, 1920, art. VI.

[144] Arts. 112, 110 of basic law.

[145] *Cf. infra*, p. 246.

[146] *Cf. supra*, p. 232.

[147] Art. 69, basic law: 500 to 5,000 frs., increased 25 per cent by art. 110.

[148] *Cf. supra*, p. 232, and *J.-C.F.*, Div. RS, Nos. 56, 57.

[149] *J.-C.F.*, Div. RS, No. 53.

[150] Art. 68, basic law.

[151] *J.-C.F.*, Div. RS, Nos. 6, 7.

[152] Art. 68, basic law.

[153] *J.-C.F.*, Div. RS, No. 43, citing *Instruction* of May 4, 1921.

[154] The tribunal can reduce this penalty if it sees fit, or substitute a fine for imprisonment, if extenuating circumstances are found. *J.-C.F.*, Div. RS, Nos. 45, 50. The principle of imprisonment for fraud against tax laws is not a new one in France.

[155] Interview at Finance Ministry by the writer.

There are definite rules as to what grades of fiscal agents may or may not grant the taxpayer a lowering of the fines.[156]

As was the case with the payments taxes, the zeal of the tax collector in rounding up overdue taxes and discovering mistakes is sharpened by a provision that one-tenth of the fines collected [157] goes to the tax agents. Instead of being paid directly to the agent who has tracked down the guilty one, however, it is paid into the common fund to be distributed among those charged with the application of the tax.[158]

The Administration's rights against the taxpayer expire three years after the offense is committed, unless active prosecution is begun before that time. However, in case of fraud, this limitation dates from the time the fraud is discovered. As soon as prosecution is started, the Administration has thirty years leeway.[159]

It will be recalled that special measures of control were taken for certain itinerant *commerçants* requiring them to have a *carte de commerce.* If they do not fulfill the law's requirements, their goods can be seized and sold to cover fines and taxes due, the fine ranging from 100 to 5,000 francs. Upon second offense within five years the goods can be confiscated.[160]

Administration. — Although in later years the collection of the turnover tax became almost entirely centralized in the hands of the Indirect-Tax Administration, at the inception of the tax three different Administrations shared in its application.[161]

The Indirect-Tax (*contributions indirectes*) Administration collected the tax from those whose business already brought them under the control of this Administration for the collection of special indirect taxes (*e.g.*, taxes on liquor traffic, on sugar),[162] and from all *commerçants* (except stock companies) in communes of 5,000 or under.

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[156] For compromises (*transactions*) *cf. J.-C.F.*, Div. RS, Nos. 77–80; for *remises gracieux*, *cf. ibid.*, Nos. 84–90.

[157] That is, one-tenth of the fines *en principal*, not including the increases by *décimes*. *Bulletin des Contributions Indirectes*, 1925, No. 3843, pp. 5–8.

[158] A ministerial *arrêté* of June 26, 1922, first fixed the method of division (cited by *J.-C.F.*, Div. RS, No. 101); for latest rules, *cf. J.C.I.*, July 15, 1928, pp. 379–383. For a vigorous protest against this "profit sharing" scheme, *cf.* Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, July 11, 1922, p. 6. A high official in the Finance Ministry, however, told the writer it was "indispensable."

[159] *Cf.* art. 70, basic law, and *J.-C.F.*, Div. RS, Nos. 95–99.

[160] Law of Dec. 31, 1921, arts. 7–10. *Cf. J.-C.F.*, Div. P, No. 192, and *supra*, p. 230, note 122.

[161] *Décret* of July 24, 1920, arts. 1, 5, 10. For the reasons dictating this divided administration of the tax, *cf.* Allix and Lecerclé, *op. cit.*, pp. 36, 37, 252–254; and *supra*, p. 81 *et seq.*

The Registration Administration, on the other hand, has most of its work in the cities; hence it was given charge of the tax for all stock companies, and all other taxpayers not controlled by the Indirect Tax Administration, or the Customs Administration. This latter took charge of the import (and in 1926, export) tax.

Distribution of Proceeds. — One-eleventh of the 1.1 per cent tax (including the tax on imports) [163] went to a common fund to be distributed to the départements and communes, two-thirds of the fund going to the communes, the other third to the départements.[164] These two shares were subdivided pro rata, using the latest census as a basis.[165] At present, one-twentieth of the existing 2 per cent tax goes to this fund, the distribution of which as concerns the several départements was changed in 1923 so that after each département has received the equivalent of two francs per inhabitant by the regular pro rata population distribution, the poorer départements get a major share of what is left.[166]

No part of the luxury taxes goes to the départements or communes.

As will be noted, part of the new coal and sugar replacement taxes goes to these local bodies.[167]

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[162] For detailed list, *cf. Instruction* of Aug. 29, 1920, art. V.

[163] *Arrêté* of July 1, 1920, art. 1.

[164] Art. 63, basic law. This provision was inserted by the Chamber toward the end of the debates.

[165] Law of Dec. 31, 1920, art. 12.

[166] *Cf. infra*, p. 249. Up to 1923 the départements' share of the revenue had amounted to about 1.50 frs. per capita per year. *D.P.*, 1923, *Ch.*, *S.E.*, p. 768 (No. 6826). Communes, in contrast to départements, were receiving more money from this source than they really needed. *D.P.*, 1924, *Ch.*, *S.O.*, p. 163 (No. 6980). *Cf.* also *D.P.*, 1925, *Ch.*, *S.O.*, p. 2209 (No. 1990). For an attack on the principle of the "common fund," *cf.* report of the Commission des réformes, *Journal Officiel*, 1923, *Annexes*, p. 944; also comment in Allix and Lecerclé, *op. cit.*, pp. 316, 317. The latest law extending the life of the system noted above is that of Dec. 30, 1928, art. 39. Before any division of the fund is made, a certain sum is set aside to cover deficits of local railroads. Laws of March 31, 1924, Dec. 31, 1925, and April 17, 1927.

[167] *Cf. infra*, pp. 288, 289.

Legal Procedure in Case of Dispute. — The Administration may disagree with the taxpayer on many points: whether or not he should pay any tax at all; whether he should pay the tax only on commissions received, or on his gross receipts; whether or not a certain part of his gross receipts is exempt — but in almost all cases if the dispute is not settled by agreement, it is carried, not to the civil-law courts which handle the regular *contributions-indirectes* cases,[168] but to the administrative tribunals which handle "direct-tax" cases — *i.e.*, the *Conseils interdépartementaux*,[169] with appeal to the *Conseil d'État*. The only exceptions to this are: (*a*) an accusation of a second fraudulent offense within three years, when the trial is made before the *tribunal correctionnel;* (*b*) a request by the taxpayer for gratuitous remission of taxes, made to the Tax Administration; (*c*) disputes concerning luxury-establishments classifications, or the *forfait* (estimated-tax-base) régime, handled by special commissions;[170] (*d*) disputes concerning imports or exports brought before courts competent to settle customs disputes; (*e*) certain questions of pure civil law brought before civil courts.[171]

In respect, then, to the kind of court to which disputes are referred, the turnover tax can be grouped with the direct taxes (*e.g.*, income taxes) rather than with the *contributions indirectes*. But the procedure followed during the course of the dispute before these courts is, curiously enough, that which has been developed for indirect taxes. Thus even in an administrative sense, the turnover tax is a puzzling hybrid — neither wholly "direct" nor wholly "indirect."

The use of the procedure developed for indirect taxes before the courts has been the source of vigorous protests.[172] The taxpayer is considered a *fraudeur* if his statement of turnover is not found acceptable by the tax collector, and if, refusing to accept the correction suggested, he contests the case in court and loses. Hence he may be liable to heavier fines than one paying direct taxes, for there the assumption of fraud in case of dispute does not exist. Likewise the burden of proof is more apt to rest on the tax collector in the case of direct taxes, and on the taxpayer in the case of indirect taxes. If the turnover-tax payer's statement seems too low to the tax collector, the latter can at once bring the former before the court as a presumed law violator.[173]

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[168] Allix and Lecerclé, *op. cit.*, p. 298.

[169] Which replaced the *Conseils de préfecture* in 1926. *Ibid.*, p. 304.

[170] *Cf. infra*, pp. 275, 277, 251.

[171] *J.-C.F.*, Div. RS, Nos. 120–123.

[172] *Cf.* Allix and Lecerclé, *op. cit.*, p. 299; A. Gabriel Desbats, "Faut-il supprimer la taxe sur le chiffre d'affaires?", *Revue Politique et Parlementaire*, Vol. 120, pp. 435–443 (Sept. 10, 1924).

The initial stage in prosecution is ordinarily for the Administration to issue what might be called a writ of arrest (*contrainte décernée*), the execution of which the taxpayer can stop either by direct appeal to the court (*requête introductive d'instance*), or by serving notice on the Administration that he is appealing to the court (*signification par exploit d'hussier de la demande introductive d'instance*). Or, the Administration can take its first step by appealing directly to the court. In either case the legal battle is started in earnest.[174] The court notifies the defending party (in the first two cases given above, the Administration; in the third case, the taxpayer) and sets the time within which each disputant must submit his proofs.[175]

Upon the taxpayer's demand (or even without such demand, if it so chooses) the court sets up a fact-finding committee of three members, one chosen by the court, one by the taxpayer, and one by the Administration. The Administration's member is the head of the committee. The committee must confine itself to settling disputed questions of fact, and leave the legal side strictly alone. It submits its conclusions to the court; or, if the members can not agree, each may give his own version. That such disagreement may cause considerable delay is evidenced by the fact that, although in principle the separate reports must be completed within a short period, in practice it may be several months or even a year or more before they are handed in.[176] The expenses of the committee and certain other incidental expenses [177] are paid by the party that loses.

The *Conseil interdépartemental* holds a public session in which it hears whatever oral arguments the litigants may care to make to back up their documental claims (but allowing no new points to be

[173] *J.-C.F.*, Div. RS, Nos. 105, 106.

[174] *Ibid.*, Nos. 124–135.

[175] *Ibid.*, Nos. 146–150.

[176] *Ibid.*, Nos. 151–197.

[177] *Ibid.*, Nos. 265–285.

brought up). It then deliberates upon the problem — out of the presence of the contesting parties — and proceeds to make a public announcement of its decisions and the reasons therefor.[178]

Three forms of appeal are open after the *Conseil interdépartemental* has made known its decision. If the losing party is such through simple default — *i.e.*, has not contested the case — he may cause it to be reopened before the same *Conseil*. If a third party is injured by the decision, he also may cause the *Conseil* to review its decision.[179] But the most common step is that of appeal to the highest court, the *Conseil d'État*. No matter how small the matter involved, it may be appealed, if steps are taken within two months from the notification of the lower court's decision. The appellant can not bring new points of dispute before the higher court (*e.g.*, the taxpayer can not ask for a greater reduction in tax than he claimed before the *Conseil interdépartemental*). Here again, the court may rehear the case if it was won by default, or if a third party's interests are endangered by the decision. Otherwise, there is no appeal against the decision of the *Conseil d'État*.[180]

The appeal to the *Conseil d'État* does not arrest execution of the lower court's judgment.[181]

The procedure outlined above is followed whether it be the Administration or the taxpayer who had the original grievance. Thus, a taxpayer may decide he has paid too much; his demand for a tax refund, if contested, follows the paths described above.[182] He must bring suit within two years.[183]

The Administration has no claim against the taxpayer's assets or personal effects to assure payment of the turnover tax. Thus, if a taxpayer goes bankrupt, the Administration has no claim on his property prior to those of his creditors. The Indirect-Tax Administration claimed for several years that it had such a right, according to an old law applying to *contributions indirectes*, but the *Cour de Cassation* in a recent judgment overthrew this claim in a decision especially interesting for its firm declaration that the turnover tax is not a true indirect tax, having a certain personal element in it that renders it a tax *sui generis* — neither wholly direct nor indirect.[184]

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[178] *Ibid.*, Nos. 214–249.

[179] *Ibid.*, Nos. 286–295.

[180] *Ibid.*, Nos. 297–340. For procedure in the *tribunaux correctionnels*, where the second-offense taxpayer is prosecuted as a criminal, *cf. ibid.*, Nos. 341–366. Here, too, an appeal may be carried to a higher court, the *Cour de Cassation*.

[181] *Ibid.*, No. 327.

[182] Allix and Lecerclé, *op. cit.*, p. 298.

[183] *Ibid.*, p. 306. For time limits for Administration, *cf. supra*, p. 235.

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[184] *J.-C.F.*, Div. RS, No. 373 *bis*. For text of *arrêté* and comment, *cf. J.C.I.*, June 8, 1928, pp. 301, 305. Both the *Juris-Classeur* and Allix and Lecerclé (*op. cit.*, pp. 307-309) believe the Administration should be granted such a claim, by special law. Such a proposal is now before Parliament. *Cf. D.P.*, 1922, *Sénat, S.E.*, p. 57 (No. 624).

CHAPTER X

LEGAL DEVELOPMENTS, 1921–1928

CHANGES IN 1921 AND 1922

FOR two and a half years after the passage of the basic law, no important changes were made in the turnover tax. The flood of legislation destined to jockey the tax rates up and down and partially to disintegrate the tax itself had not yet made its appearance. Up to 1923 the only important changes were those concerned with the manner of levy and collection of the tax. They concerned the *forfait* and a shift in administration.

The Forfait.— At the beginning of 1922 the so-called *forfait* régime was extended to a larger group of taxpayers and the privileges incident to it were, superficially, increased.[1] The *forfait* was granted to all *commerçants* who wanted it, whose annual turnover was not more than 120,000 francs, or, if they were sellers of services — commission merchants, bankers, etc.— not more than 30,000 francs.[2] This contrasted with the 48,000-franc and 12,000-franc limits set by the 1920 law. At the same time, those who accepted this régime were granted the doubtful privilege of not having to furnish fiscal agents information from their books bearing on their monthly turnover. Doubtful, because it appears the agents could still demand such information when time came to estimate the coming annual turnover[3] (as indeed they had to do, were they to have any check on the figure, submitted each January, of the preceding year's total gross receipts).

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[1] Law of Dec. 31, 1921, art. 28.

[2] These amounts were reckoned by excluding sales not subject to the tax. *Cf. Revue de l'Enregistrement*, 1923, art. 7735, p. 209.

[3] *Cf.* Allix and Lecerclé, *La Taxe sur le chiffre d'affaires*, p. 273; also *Juris-Classeur Fiscal*, Division Q, No. 13. Furthermore, the application of art. 32 of the law of July 31, 1920, was not touched in any way, so that *commerçants* whose annual turnover exceeded 50,000 frs. still had to furnish such information, under certain conditions (*cf. supra*, p. 232). And the Direct-Tax Administration still had the right to inquire into annual turnover, that it might fix the basis for calculating the industrial- and commercial-profits tax in certain cases. In brief, the 1922 law did little except extend the existing *forfait* system to more taxpayers.

It was now made clear, however, that the Administration could in no case refuse to grant the *forfait* system to those who came within the definition of the law.[4] More important, the Administration admitted that the turnover "estimated" for the coming year should be precisely the turnover for the past year as submitted by the taxpayer.[5] In effect, payment of the tax was delayed one year, but the levy was made upon a supposedly accurately calculated base. As has been noted, payment under the *forfait* régime is made quarterly, or annually.

The taxpayer in any case still had to keep the special book of sales, or other similar books.[6]

The Administration had the right to remove the *forfait* privileges if the taxpayer violated the law in any way.[7]

Shift in Administration. — The drift toward centralization of control was started during this period. The Indirect-Tax Administration was allowed to collect the tax even in towns of more than 5,000, if there was no Registration Bureau located there,[8] and beginning January 1, 1923, it took over collection of the tax from automobile dealers everywhere.[9]

CHANGES IN 1923

The year 1923 brought important alterations to the turnover tax. The more significant were: (*a*) the exemption granted to certain artisans and other small quasi business men; (*b*) the stepping back of the luxury tax on automobiles, making it virtually the first of the "production" or replacement taxes; (*c*) a revision of the system of fines; (*d*) relaxation of the requirements concerning monthly statements and payments.

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[4] *J.-C.F.*, Div. Q, No. 11, citing statement by Finance Minister.

[5] *Loc. cit.*, citing a note of the Indirect-Tax Administration.

[6] *J.-C.F.*, Div. Q, No. 13. *Cf. supra*, pp. 230, 231.

[7] *J.-C.F.*, Div. Q, No. 10.

[8] *Arrêté* of April 1, 1921.

[9] *Arrêté* of Oct. 9, 1922, arts. 1, 2. *Cf. J.-C.F.*, Div. M, No. 3. This was made more explicit and the field slightly broadened by the *arrêté* of Dec. 26, 1923. Other changes noted elsewhere concerned: control measures over itinerant *commerçants* (*supra*, p. 230, note 122); classification of luxury articles (*infra*, p. 267, note 12); and the *soumission cautionnée* régime for imports (*infra*, p. 291; *supra*, pp. 183, 184).

Exemption of Artisans and Others. — The artisan, or handicraftsman, whose "profits" come from his manual labor rather than from trading in the materials which he works up, has never been a *commerçant*, legally speaking, but has instead been viewed as a laborer. Nevertheless, he was made subject to the industrial- and commercial-profits division of the income tax, by the law of July 31, 1917. Hence he was also subject to the turnover tax.[10] In 1923,[11] he was transferred to the wages and salaries schedule of the income tax, and thus is automatically exempt from the turnover tax, as he usually can not be considered as "buying to resell," and is no longer subject to the profits tax.

Two troublesome questions arise here. First, when is an artisan truly an artisan, and not a *commerçant?* Second, even if he is an artisan, may not part of his gross receipts come from buying and reselling?

First: As indicated above, the essential characteristic of the artisan is that he makes his living from his own manual labor upon raw materials which he has purchased to transform (usually in accordance with orders previously given him) rather than gaining profit through the resale of tangible objects.[12] However, there are certain other conditions which he must fulfill in order that he may escape into the salaries and wages schedule and thus automatically avoid the turnover tax. These are: (1) he must employ no help other than that of (*a*) his own family (father, mother, and children and grandchildren),[13] (*b*) an apprentice under eighteen years of age,[14] (*c*) and one companion; (2) his labor must be manual; that is, he can not use more than a very small amount of machinery;[15] (3) he can not keep a sales shop separate from his workshop, and in general, can not use commercial methods in selling (*e.g.*, employment of traveling salesmen).[16] On the other hand, he need not work only on orders already received; and he may work either in his own shop or elsewhere (*e.g.*, masons, plumbers).[17]

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[10] By the second test, mentioned *supra*, p. 206.

[11] Law of June 30, 1923, art. 10.

[12] Thus a bicycle dealer who buys parts, assembles them and sells the bicycle, is not an artisan, for most of the value of the bicycle comes from the value of its parts, not from the labor of assembly. *J.-C.F.*, Div. F, No. 60. An artisan does not keep large stocks on hand, from which he may benefit in case of a rise in prices. *Ibid.*, Nos. 65–68.

[13] *J.-C.F.*, Div. F, No. 29. A provision, "living with him," was deleted by the law of Dec. 30, 1928, art. 14.

[14] Changed from "sixteen" by law of March 21, 1928.

Second: Granted that the person under consideration is, generally speaking, an artisan, what happens if he carries on a little side line of trading? Thus, a barber may sell his customers shaving soap; or a shoemaker, shoelaces. The doctrine here is that if he buys and resells only a very small amount of things accessory to his work (as the shoelaces and shaving soap mentioned above), the Administration will overlook the fact, and excuse him from the turnover tax. If he sells more than a very small amount of such accessories, or if he sells something not strictly accessory to his work (if the barber sells, *e.g.*, toothpaste), he is taxable upon the gross receipts from such sales, and upon those gross receipts alone, unless such sales form a large part of his total business (say over 25 per cent), in which case he loses his status as artisan, and becomes taxable on his total gross receipts from his whole business.[18]

The law likewise places in the salaries and wages schedule the widow of an artisan, who is carrying on his business, even though she does no manual labor.[19]

There may be noted here the provision enacted in 1926,[20] whereby the artisan could form a partnership with any of those working with him (or with another artisan), without having this fact alone lose him his status as artisan.

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[15] Thus, a woodcutter who uses a power saw may be placed outside the artisan group. *Cf. J.–C.F.*, Div. F, Nos. 46–56, for other examples.

[16] *Ibid.*, Nos. 69–72.

[17] *Ibid.*, Nos. 74, 75. Tests (2) and (3) are not found in the law; they were developed in the *Instruction* of Nov. 20, 1923. *Cf. J.–C.F.*, Div. F, Nos. 26, 27. A delicate question has arisen in the administration of the tax as applied to artisans. Which one, the Direct-Tax Administration, or the Indirect-Tax Administration, has the power to decide whether or not a given artisan can transfer to the wages schedule of the income tax and hence escape the turnover tax? Apparently both have claimed the right at times, and when the decisions of the local tax officials conflict, the taxpayer must await a final decision from some higher official in the Finance Ministry. *Cf. J.–C.F.*, Div. F, Nos. 145–147.

[18] *Cf.* Allix and Lecerclé, *op. cit.*, pp. 80–82; Gardes and Morillot, *L'Impôt sur le chiffre d'affaires*, pp. 40–43; *J.–C.F.*, Div. F, No. 81.

[19] *J.–C.F.*, Div. F, Nos. 101–103.

[20] Law of April 4, 1926, art. 59. *Cf. Instruction* of April 20, 1926, and *J.–C.F.*, Div. F, Nos. 18, 109.

But artisans were not the only ones transferred to the salary and wages schedule by the 1923 law.[21] The law also mentioned a type of worker known as the *façonnier*, who is somewhat analogous to the factory wage earner. His essential characteristics are: (*a*) he works at his home, (*b*) does work only on order and only for merchants or manufacturers[22] who furnish him with his raw materials, (*c*) and employs no more help than that mentioned above as allowed to the artisan.[23] In contrast to the artisan, he can use as much machinery as he likes. If he does not fulfill these conditions he is taxable on his gross receipts.

In addition, the 1923 law transferred to the salary and wages schedule (and hence exempted from the turnover tax), street hawkers,[24] taxicab drivers and coach drivers,[25] those who themselves own and operate but one boat, whether they transport passengers or freight,[26] and fishermen.[27]

Luxury Tax on Automobiles. — This change is discussed in detail under the section on luxury taxes.[28] In effect, the 10 per

[21] Law of June 30, 1923, art. 10.

[22] Thus a soap-maker who takes raw materials from individuals who are not business men so far as this order is concerned and who manufactures soap for these *particuliers* (in contrast to *commerçants* and *industriels*) is not, legally speaking, a *façonnier*. The same is true of a miller working on orders from farmers. *J.-C.F.*, Div. F, No. 96.

[23] This latter rule was relaxed by the law of March 19, 1928, art. 21, which allows a *façonnier* to have three fellow workers (at most) if each one completes his own piece of work, and is paid strictly on a piece basis. *Cf. J.-C.F.*, Div. F, Nos. 99 *bis*–99 *quinquies*. The "piece basis" rule was relaxed by the law of March 30, 1929, art. 17.

[24] For the qualifications necessary to come under this definition, *cf. J.-C.F.*, Div. F, Nos. 131–142. It would seem that street hawkers could still be taxed under the "buying and reselling" test, but the Administration has not taken this course. *Cf. ibid.*, No. 144. None of the others mentioned in this 1923 law can be considered as "buying and reselling."

[25] These were already exempt from the turnover tax under art. 60 of basic law. *Cf. supra*, p. 225. All that this provision did was to excuse them from the profits tax. *Cf. J.-C.F.*, Div. F, Nos. 127–129.

[26] For details, *cf. ibid.*, Nos. 112–118.

[27] For details, *cf. ibid.*, Nos. 119–126. The provisions of this 1923 law were made retroactive to Jan. 1, 1920, for the *façonniers*, boat operators, taxi-drivers and coachmen, and fishermen; to Jan. 1, 1922, for the artisans and street hawkers. Taxes already paid were to be refunded upon demand. *Ibid.*, Nos. 148–150.

[28] *Cf. infra*, pp. 271, 272.

cent luxury tax on automobiles, instead of being collected upon retail sales, was stepped back and levied on the manufacturers, in order to check fraud.

Revision of Fines. — As was noted above,[29] the basic law had specified certain penalties for infraction of the tax law. The fines levied had been shown, in practice, to be too high.[30] These provisions were now recast,[31] and have remained unchanged to the present time, with the exception of the 20 per cent increases noted below.

Mere delay in payment (that is, supposing the monthly statement to have been sent in on time) [32] was henceforth penalized only by a light *indemnité de retard*, which is a compromise between a fine and an ordinary interest payment. The delinquent taxpayer must pay one per cent of the tax due, for each month of the first three months of delay, the rate being raised to one and one-half per cent per month for the second three months of delay, and to 2 per cent for each of the following months.[33] This "fine" is not cumulative with the other, true fines; it is levied alone or not at all.[34] It is due even in case of involuntary error, but the Administration has the power to refrain from levying it [35] in such a case, or to reduce it in any case.[36] If any of the true fines are levied, however, the Administration can not reduce them below an amount corresponding to this *indemnité*, save in very exceptional cases.[37] The Admin-

[29] *Cf. supra*, pp. 233-235.

[30] *Documents Parlementaires*, 1921, *Chambre*, *Session Ordinaire*, p. 1498 (No. 2660); *D.P.*, 1922, *Ch.*, *S.O.*, p. 983 (No. 4428), this latter complaining especially against the fines for mistakes resulting from mere errors in addition, etc. *Cf.* also Chambre de Commerce, Marseille, *Rapport*, Sept. 26, 1922.

[31] Law of March 30, 1923, art. 14.

[32] *J.-C.F.*, Div. RS, No. 11, citing note of Indirect-Tax Administration of April 26, 1923.

[33] The 25 per cent increase in fines ordered by art. 110 of the law of June 25, 1920, does not apply to this *indemnité de retard*, as it is not a true fine. *Cf. J.-C.F.*, Div. RS, No. 20, citing note of Indirect-Tax Administration, of Sept. 28, 1923. The 20 per cent increase in taxes and fines ordered by art. 3 of the law of March 22, 1924 (*infra*, p. 250), applied for only a short time; when the rates of the turnover tax were changed in 1926 this increase became non-applicable as it concerned only those receipts authorized by the revenue law of Dec. 28, 1923. *J.-C.F.*, Div. RS, No. 21.

[34] *Ibid.*, No. 13.

[35] *Ibid.*, No. 16, citing the *Journal des Contributions Indirectes*.

[36] *Ibid.*, Nos. 22-25, citing ministerial decision of Sept. 14, 1923.

[37] *Ibid.*, No. 16, citing note of Indirect-Tax Administration of April 26, 1923.

istration will take no action at all if the delay does not exceed three working-days.[38]

A new offense was defined — that of intentionally, or through an "inexcusable mistake," omitting any entry in the book of sales or in the statement to the Administration. This includes, *e.g.*, delay in sending in the statement, or failure to send in the statement at all, if done intentionally or through an inexcusable mistake.[39] This is now punishable by a fine of five times the amount of the tax evaded, although a compromise can be made with 50 francs as the minimum. Furthermore, this penalty can be increased by 25 per cent, by virtue of article 110 of the law of June 25, 1920.[40]

Any other offense was henceforth penalized by a fine of from 50 to 1,000 francs. This penalty too can be increased by 25 per cent. This class includes delay in sending in the statement, or failure to send in any, or incompleteness in the statement, if such occurs in entire good faith.[41]

The imprisonment penalty for second offense was retained.

Likewise the special penalty for refusal to show books and commercial papers to tax agents, imposed by article 69 of the law of June 25, 1920, was retained.[42]

There may be noted here the amnesty granted in 1924, by the law of March 22, article 51. This applied to declarations to be made by taxpayers for all taxes in general, and provided that if within six months from the date of the law a taxpayer should voluntarily correct any incorrect statement he had made, he would escape prosecution. Such correction had to be done without the least pressure from or notification by the Administration. But for those who did not repent, and were found out, article 52 of the same law provided a special penal fine (*amende pénale*), from 1,000 to 5,000 francs, in addition to the regular fiscal fines that could be levied. In case of omission of part of the taxable receipts in the statement, the penalty could be levied only if the amount so omitted was at least 10 per cent of the taxable total.[43]

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[38] *Ibid.*, No. 14, citing statement of Finance Minister.

[39] *Ibid.*, Nos. 26–30, citing statement by Finance Minister, and decision of the *Conseil d'État.*

[40] The 20 per cent increase ordered by the 1924 law was applicable only for a short time. *Cf. supra*, p. 246, note 33.

[41] For argument that arose over this point, *cf. J.-C.F.*, Div. RS, No. 33.

[42] *Cf. supra*, p. 234. As to the 20 per cent increase levied in 1924, which lasted only for a short time, *cf. supra*, p. 246, note 33.

Relaxation of Statement and Payment Requirements. — Parliament still struggled with the method of collection. As has been noted,[44] certain *commerçants* (*e.g.*, bankers) who did not close their books every month, had been excused from the trouble of sending in monthly statements, though they still made monthly payments, "on account." This privilege was in 1923 [45] extended to all taxpayers having a permanent place of business (*installation permanente*), and only a yearly statement need now be sent in. Furthermore, the payments "on account" need be sent in only once every three months, instead of monthly, by those *commerçants* whose turnover is so small that they could, if they wished, go under the *forfait*, or estimated-tax-base, régime instead. Virtually the same method as before is used in reckoning the payment "on account." For those who pay every three months, it is one-quarter of the tax due for the previous year; for those who pay monthly, one-twelfth. Before May 1 of the following year, the balance due, if any, must be paid to the Treasury; if too much has been paid, the excess is applied against future tax payments, or refunded. Provision is made to revise the above basis of payment if the turnover, at the end of six months, proves to be less than one-third of the previous year's turnover. Thus the bother of sending in monthly statements has been removed, for the great majority of taxpayers, whether or not they are under the true *forfait* system of 1924.

As can be readily seen, the only difference between this system and the small merchant's *forfait* régime as it existed prior to the change in 1924 was that by the former the tax on the current year's turnover was collected during the current year (payments "on account"); by the latter, during the following year (using, *e.g.*, the 1922 turnover figure as above for the 1923 tax).

[43] *J.-C.F.*, Div. RS, Nos. 60–66. Provision for heavier fine and imprisonment in case of second offense was added by art. 8 of law of April 4, 1926.

[44] *Cf. supra*, p. 228.

[45] Law of March 30, 1923, art. 13. For details of application, *cf. Instruction* of June 9, 1923.

The only other change of importance in 1923 resulted from a decision by the *Conseil d'État*, which held that those who rented a furnished room or apartment were subject to the turnover tax. Hitherto only those who made a regular business of this were open to the tax (since they come under the profits tax). But the *Conseil* decided that all who rent furnished rooms are carrying on a commercial activity which should be subject to the commercial- and industrial-profits tax (and hence to the turnover tax). Therefore the tax now strikes even those who rent a room or a house only occasionally, as, for instance, the owner who rents his house while away for the summer, or the apartment-house dweller who sublets his apartment.[46]

The method of distributing the common fund for départements and communes was altered slightly in 1923; the essential principles of the distribution remained unchanged.[47]

The turnover tax was merged with other taxes into one general levy, in the case of receipts from gambling in clubs regulated by the law of July 1, 1901. In 1926 the same thing was done as regards casinos.[48]

Sales and imports of materials for the erection of war monuments, under certain restrictions, were exempted from the domestic turnover tax and the import tax.[49]

[46] Decision of *Conseil d'État*, Jan. 5, 1923. *Cf. J.–C.F.*, Div. E, Nos. 176–188; also Allix and Lecerclé, *op. cit.*, pp. 65, 66. There is still doubt as to the status of one who rents one or two rooms in his home or apartment while he continues to live there. *Cf. J.C.I.*, April 18, 1929, p. 201. Note that the renting of an unfurnished house does not make the owner subject to the tax; this is a "civil," not a "commercial" activity. But if one does rent a furnished room or house, no deduction from the tax base is allowed off that part of his receipts which might be considered as flowing from the room or house itself minus the furnishings. *Cf. J.-C.F.*, Div. H, No. 152. The Chamber Finance Committee proposed specific exemption for renters of furnished rooms, but the proposal failed of enactment, because of the Senate's opposition. *D.P.*, 1923, *Ch.*, *S.O.*, p. 1070 (No. 5913); *D.P.*, 1926, *Sénat*, *S.O.*, p. 947 (No. 253).

[47] Law of Dec. 28, 1923, art. 10.

[48] Law of June 30, 1923, arts. 47, 48, and law of Dec. 19, 1926, art. 14.

[49] Law of June 30, art. 12. Other changes made in 1923 which are noted elsewhere concerned: certain changes in the luxury tax on automobiles (*infra*, pp. 271, 272); revision of the classification of luxury articles (*infra*, p. 267); exemption of bankers as concerned amounts received discounting the short-term *Bons de la Défense Nationale* (*supra*, p. 224).

CHANGES IN 1924

Parliament burdened the taxpayer in 1924 with a higher tax rate, but it offset this somewhat, for the smaller business men, by the true *forfait*, or estimated-tax-base, régime, which grants complete freedom from the tax gatherer. The other important development was the result, not of legislation, but of a court decision, and rendered taxable many consumers' coöperatives which had hitherto been considered exempt.

Increase in Rates. — Practically all taxes collected for the benefit of the State were raised 20 per cent in March, 1924.[50] In the absence of any specific provision to the contrary, the ordinary turnover-tax rate of 1.1 per cent (1 per cent for the State plus 0.1 per cent for the local bodies) [51] was thus raised to 1.3 per cent (1.2 per cent for the State plus 0.1 per cent for the local bodies). The rates of the luxury taxes and the import tax were likewise increased by one-fifth.[52]

The new rates became effective on all payments received on and after March 23, 1924, no matter when the sale had been agreed upon.[53]

The Forfait, *or Estimated-Tax-Base, System.* — At last the smaller taxpayers were given what they had clamored for, a true *forfait*, or estimated-tax-base, régime.[54] Those whose estimated turnover did not exceed 200,000 francs per year if their principal business was to sell goods, or 40,000 francs per year if they were principally intermediaries (thus reckoning their turnover by gross commission, interest, etc., received),[55] could demand and receive the benefits of this method of assessment and collection. The system is still in force today, although the limits of eligibility have been raised to 300,000 francs for the sellers of goods, the other limit remaining the same.[56]

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[50] Law of March 22, 1924, art. 3.

[51] *Cf. supra*, p. 236.

[52] *Cf. infra*, pp. 270, 278, 292 (note 11).

[53] This *double décime* also became applicable to the State's share of the sums received under the *forfait* system, applying to the period after March 23. *J.–C.F.*, Div. K, Nos. 59–66.

[54] Law of April 16, 1924, arts. 5, 6. For details of application, *cf. décret* of Nov. 9, 1924.

[55] These figures reckoned on total turnover, including that part exempt from the tax. If one person operates a business with several branches, the turnover of all the branches is totaled to determine whether he may come under the *forfait* régime. This differs from the doctrine formerly in force. *J.–C.F.*, Div. Q, Nos. 49, 49 *bis*.

The chief features of this régime are: (*a*) estimation of taxable turnover, instead of accurate recording, (*b*) freedom from all inspection of books by tax agents, (*c*) quarterly payments.

The taxable turnover is merely estimated. The taxpayer need keep no book of sales for tax purposes, and need give no information as to what his true turnover is.[57] In sending in his application (before January 31) to be taxed under the estimate system, the taxpayer merely indicates the taxable gross receipts he expects to take in during the coming year,[58] distinguishing, of course, between receipts from sales of goods and receipts as an intermediary, and also among receipts taxed at different rates. He should also indicate tax-exempt receipts he expects to get. The tax agent to whom this statement is sent checks it in the light of what knowledge he has, and if he disagrees, notifies the taxpayer,[59] who can then appeal to one of the département commissions newly created by the 1924 law. The Administration has a preponderate vote in these commissions (four out of seven),[60] and, in contrast to the system for classifying luxury establishments,[61] there is no superior commission of appeal. But if the taxpayer thinks that the commission is setting too high a figure, he can renounce the estimate system altogether, thus going back to the regular régime of bookkeeping, and payment on the true turnover. Naturally, the Administration finds it difficult to check up the taxpayer's estimate, since it has no right to inspect his books unless he definitely renounces the new system. When the time came, at the end of 1926, to check estimates for the coming yearly period, the Administration issued instructions to its agents on such checking, and the variety of methods suggested indicates the difficulty of the task. Note the rent paid by the taxpayer, instructed the Administration; note how many workers he employs, how much power and machinery he uses, and compare him with a taxpayer in similar circumstances who has not chosen the estimate system; use data on purchases he has made (secured from books of non-*forfait* taxpayers); notice what additions he has made to his plant. See how large a family he has, and what his social standing is; apply to his estimated turnover the profit coefficient used in levying the income tax, and if the result does not give enough to meet his obvious expenses (assuming, of course, that he has no other source of income than his business), it is clear that he has underestimated his turnover. Also, of course, the rise in the price level that has occurred since the last estimate was fixed should be noted.[62]

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[56] Law of March 26, 1927, art. 58.

[57] This includes exemption from the law of July 31, 1920, art. 32 (*cf. supra*, p. 232).

[58] *J.-C.F.*, Div. Q, No. 49 *ter*.

[59] By *décret* of Dec. 12, 1928, verbal discussion between the taxpayer and the local official was substituted for the more formal discussion *via* registered letters. The amount of the *forfait* must not be fixed until the advice of the Direct-Tax Administration has been obtained. *J.-C.F.*, Div. Q, p. 12, *fiche provisoire*.

[60] The members of the commission are: a *conseiller de préfecture*, named by the *préfet;* three chiefs of the Tax Administrations, named by the Finance Minister; and three representatives of the taxpayers, named by the Chambers of Commerce (or by agricultural coöperatives, in cases of dispute with such coöperatives).

[61] *Cf. infra*, p. 277.

The estimate of turnover remains fixed for one year (save at the beginning of 1925, when it was fixed for the two years 1925–1926), and if no objection is made by either party, it is tacitly renewed from year to year. But during the last two months of the year either the taxpayer or the Administration can denounce the agreement, and then the estimate must be made and agreed upon anew; unless, of course, the taxpayer wishes to withdraw entirely from this régime. Owing to the rise in the price level from 1925 to 1927, the Administration was not, as a matter of fact, willing to renew tacitly the old estimate at the end of 1926, and demanded a change upward in most cases.[63]

The system is made more flexible for the luxury tax by provisions for revision every six months.[64] If the legislature changes the tax rate, the amount of tax due under the estimate system is of course changed — the new rate is applied to the estimated turnover.

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[62] Note of Indirect-Tax Administration, Oct. 6, 1926, cited by *J.–C.F.*, Div. Q, Nos. 139–142.

[63] *J.–C.F.*, Div. Q, Nos. 127, 128. For the eight months of 1924 during which the law was first applied, the *forfait* amount was fixed on the basis of the turnover realized during 1923.

[64] *Cf. infra*, pp. 268, 269.

And if the field of application of the tax is widened, or the taxpayer acquires a new business, the gross receipts estimate is revised.[65] Otherwise, once the estimate is fixed, the amount of tax due is likewise fixed for one year, though the Administration may, as a pure act of grace, revise the estimate downward if the taxpayer discontinues a part of his business.[66] If he discontinues all of his business, he is of course liable only for that portion of the estimate payment up to that time. If he sells his business the purchaser can come in under the estimate as fixed, unless the conditions of the business are substantially altered.

Linked up, of course, with this estimation of turnover is the taxpayer's privilege of refusing to show the tax agent any books, commercial papers, etc., which might serve as a check on the estimate. As a corollary to this he is not asked to keep any book of sales for tax purposes. True, the commission established to settle disputes over the estimate can demand that the taxpayer furnish all information and proofs deemed necessary to fix the estimate, but this may mean very little in practice, since the taxpayer may have but scanty information to give. It may be noted that the Administration can not inspect any of the taxpayer's books even when it is certain that they exist, and needs the information badly when the time comes, at the end of the year, to revise the estimate.[67]

The tax as fixed for the year under the estimate system is payable in quarterly installments.

Consumers' Coöperatives. — The basic law of 1920 had made no mention of coöperatives, and the Administration had assumed that they were not taxable under the "buy and resell" test, since their activities were not undertaken with a view toward making profits out of their purchases and resales. In certain cases, however, they were taxable under the commercial- and industrial-profits schedule of the income tax, and in these cases they were also liable to the turnover tax by the second test. In practice, this amounted to exemption for most coöperatives; the only ones subject to the profits tax (and hence to the turnover tax) were those which sold to others than their own members, or did not distribute their "profits," or rather, accidental surplus, among members pro rata according to purchases (or place them in a general fund not destined for distribution to the stockholders).

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[65] *J.-C.F.*, Div. Q, Nos. 117–123, and No. 160, citing statement by Finance Minister.

[66] *Ibid.*, Nos. 125–126 *bis*.

[67] *Ibid.*, No. 195, citing statement by Finance Minister.

But on January 18, 1924, the *Conseil d'État* rendered a decision in which it declared that the "buy and resell" test was applicable whether or not any profit motive was involved. Anyone buying to resell becomes taxable when he sells.[68] Hence coöperatives, which certainly buy to resell, are taxable on the gross receipts they get from their sales, even if made only to their members.

This decision had the effect of dividing coöperatives into three groups from a tax point of view:[69]

(1) Those which were subject to the profits schedule of the income tax. If they bought and resold, they were taxable on their entire gross receipts. If they merely grouped previous orders, and, not taking title to the goods themselves, acted as intermediaries, they were taxable, of course, only on their gross commissions.

(2) Those which were not subject to the profits schedule of the income tax. If they bought and resold, they were taxable on their entire gross receipts.

(3) But if they acted only as intermediaries they were not subject at all to the turnover tax (escaping both tests — buying and reselling, and liability to the profits tax).

This doctrine is still in force, with some slight changes to be noted in the next paragraph. The Administration was unwilling to apply it immediately, and certainly did not wish to force its retroactive application, since it had itself declared in 1920 that coöperatives were not taxable unless subject to the profits tax. The Finance Minister took the law into his own hands and declared that January 1, 1924, should be the starting point for the application of the doctrine laid down by the *Conseil d'État*. Such application was delayed still further by successive laws, so that the coöperatives were not taxed in accordance with the *Conseil d'État's* decision until July 1, 1926.[70]

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[68] The court had already enunciated this principle the year before, but the occasion concerned, not sales by a coöperative, but those by a railroad to its employees, made with no profit motive. *Cf. J.–C.F.*, Div. E, Nos. 46–49. For complaints that the Administration, even before these decisions, had been taxing non-profit coöperative sporting societies, *cf. D.P.*, 1922, *Ch.*, *S.O.*, p. 110 (No. 3827).

[69] For detailed discussion, *cf. J.–C.F.*, Div. G, *passim;* Allix and Lecerclé, *op. cit.*, pp. 46–54, 141; *Instruction* of June 23, 1924.

There may be noted here the favor shown to agricultural coöperatives (*syndicats*) by the law of June 30, 1926 (article 31). They are now not subject to the turnover tax, even though buying and reselling, provided they deal only with goods concerned with the business of carrying on agriculture (farm implements, seed, etc.), and provided, too, that they are so constituted as to escape the profits tax.[71] These *syndicats* are not strictly consumers' coöperatives since they both buy and sell for their members.

The only other change of importance in 1924 concerned, indirectly, bread. In an attempt to check the rise in the price of this article, Parliament voted exemption from the turnover tax for all sales, imports, and commission and brokerage transactions concerning wheat and rye destined to be transformed into bread.[72] The exemption for wheat applies only to soft wheat, in contrast to hard wheat, or durum (which comes principally from the Mediterranean and the Black Sea). The problem as to whether or not any given lot of grain is destined to be made into bread must be decided on grounds of presumption — those who usually deal in such grains are given the benefit of the doubt. This exemption is still in force.

CHANGES IN 1925

Beyond doubt the most significant change in 1925 was the first appearance of the replacement taxes on a large scale.

Replacement Taxes. — Briefly, the theory of the replacement taxes is as follows: instead of a low-rate tax levied every time a commodity changes hands, let there be but one tax, with a high rate, levied upon the commodity at some early stage in its economic progress. Thus sales of coal everywhere became exempt from the turnover tax, and sales of coal by the mines, and imports of coal, became taxable at a rather heavy rate. The sale of meat likewise became exempt from the turnover tax, and a special slaughtering tax was levied. The details of these replacement taxes are given in a separate chapter.[73]

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[70] The application of the new doctrine was put off to Jan. 1, 1926 (law of July 13, 1925, art. 85), then to March 31, 1926 (law of Dec. 31, 1925, art. 13), and finally to July 1, 1926 (law of March 31, 1926, art. 9).

[71] Although *Unions* of these *syndicats* are not taxable even if this second condition is not fulfilled. As to agricultural producers' coöperatives, *cf. supra*, p. 104.

[72] Law of Dec. 24, 1924, art. 3. *Cf.* Allix and Lecerclé, *op. cit.*, p. 89; *J.-C.F.*, Div. J, No. 27. There were no changes in 1924 other than those already mentioned.

As to the turnover tax proper, the most important changes that 1925 brought were: (*a*) a further shift in the administration of the levy, (*b*) the exemption accorded certain raw materials.

Administration. — As has been noted,[74] the turnover tax was being handled by three different tax Administrations, and this had given rise to so much dissatisfaction [75] that it was decided to give the Indirect-Tax Administration almost complete control of the turnover tax, including its branches, the luxury taxes and the replacement taxes.

The administrative decree [76] bringing about this change declares that henceforth the Registration Administration shall have practically nothing to do with the turnover tax; its field is now restricted to those businesses, such as banking, insurance, and foreign exchange, which deal with the sale of securities and money. When dealers in real estate became subject to the turnover tax,[77] they too were intrusted to the Registration Administration. The Customs Administration still deals with imports and exports; the Indirect-Tax Administration has taken over all the rest of the field, thus concentrating by far the greater part of the tax in its hands. This is the situation as it exists today. The change was made in 1925, not by Parliament, but by decree of the Finance Minister, Caillaux.[78]

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[73] *Cf. infra*, Chap. XII, for legal details; *supra*, Chap. V, for discussion of advantages and disadvantages.

[74] *Cf. supra*, p. 235.

[75] *Cf. supra*, pp. 83–87.

[76] *Décret* of May 23, 1925.

[77] *Cf. infra*, p. 258.

[78] *J.-C.F.*, Div. P, No. 209. For Caillaux's brief report giving reasons for the change (by which he predicted an increase of 500 millions in yield), *cf. Revue de l'Enregistrement*, 1925, art. 8174, pp. 409–411; and *supra*, pp. 86, 87. The change became effective July 1, 1925; for the départements of the Seine, Gironde, Nord, and Rhône, the

Imported Raw Materials. — The exemption accorded certain raw materials, granted by the law of July 13, 1925 (article 84), was a direct outcome of the troubles generated by the import branch of the turnover-tax system, and the reasons behind it are discussed in the section devoted to the import tax.[79] The technical details may be noted here, however, as the exemption applies, not to the import tax (handled by the Customs Administration), but to the domestic turnover tax.

The law — in an effort to relieve French manufacturers working with raw materials purchased through importers — exempts from the turnover tax the first sale, and the first sale only, of these goods made after landing on French soil. Furthermore, the sale must be made by him in whose name the goods are entered at customs,[80] and before the raw materials have undergone any transformation or working up.

The ticklish question is, of course, what "raw materials" shall enjoy this privilege? The list is fixed by decree, as the law ordained it should be, and comprises: hides, wool, silk, cereals, rice, oleaginous fruits and seeds, coffee, cacao, rubber, rough lumber, cotton, flax, hemp, jute, and natural phosphates.[81] This decree (August 14, 1925) was ratified August 12, 1926.

Coffee has since been exempted in any case, because of the special import tax imposed on it.[82]

The importer must show his customs receipt, to obtain the exemption, and must keep a special record of his sales.[83]

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date of application was later set at Oct. 1, 1925; for exceptional cases, Jan. 1, 1926. *Cf. arrêté* of June 27, 1925; also *Revue de l'Enregistrement*, 1925, art. 8223, p. 613. Corsica, however, remains under the care of the Registration Administration; *cf. ibid.*, 1926, art. 8297, p. 162.

[79] *Cf. infra*, pp. 302, 303, for legal details; *supra*, pp. 184–187, for advantages and disadvantages.

[80] Except when the goods have been placed under the régime of *soumission cautionnée* (*cf. supra*, p. 183). For complications involved here, *cf. J.-C.F.*, Div. J, Nos. 203–205.

[81] For details, *cf. J.-C.F.*, Div. J, No. 195. This list was fixed with the help of the Paris Chamber of Commerce (*cf.* its *Bulletin*, 1925, pp. 66–93), but as finally promulgated it was too narrow in scope to suit business interests. *Cf.* resolution by Presidents of Chambers of Commerce, *ibid.*, 1925, p. 1364; and *supra*, p. 185, note 13.

[82] *Cf. infra*, p. 280.

[83] *J.-C.F.*, Div. J, Nos. 201–203.

Real-Estate Dealers. — A third important change occurred in the tax when in July, 1925, Parliament voted to subject real-estate dealers to the turnover tax. The Finance Minister took the position, shortly after the passage of the basic law of 1920, that those who bought real estate and resold it were not subject to the tax, because although they bought to resell, they were not *commerçants*, and were not subject to the business-profits tax.[84] It would appear that this doctrine became untenable after the 1923 and 1924 court decisions declaring that the mere act of selling something which had been purchased with that end in view, rendered the doer thereof liable to the tax. However, Parliament settled the matter definitely by declaring [85] that real-estate dealers are henceforth to be considered *commerçants*, and as such, subject to the commercial- and industrial-profits schedule of the income tax, and to the turnover tax. This applies whether they buy land outright and resell it, or merely act as go-betweens, taking no title to the land, though in the latter case, of course, they owe the turnover tax only on their gross commissions received. Until now both these actions had been free of tax, unless the dealer, in acting as go-between, exhibited the characteristics of a regular commercial *mandataire*, acting ostensibly in his own name, but in reality being only an intermediary; [86] or unless the seller was a stock company.[87]

Orders, promises of sale, papers showing transfer of property, and in general all acts touching on his profession as intermediary or his status as proprietor must be entered in special forms by the taxpayer. The Registration Administration has charge of collecting the tax.

The other changes made in 1925 are discussed elsewhere, as they concern the import taxes [88] and the automobile luxury tax.[89]

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[84] Transfers of real estate were already subject to very heavy registration taxes; hence the desire to exempt them from the turnover tax. *D.P.*, 1920, *Ch.*, *S.O.*, p. 1143 (No. 2392).

[85] Law of July 13, 1925, art. 39.

[86] *Cf. J.-C.F.*, Div. E, No. 168.

[87] *Cf. supra*, p. 194.

[88] *Cf. infra*, p. 302.

[89] *Cf. infra*, p. 273. Another change in the turnover tax proper has been noted elsewhere: taxation of consumers' coöperatives postponed (*supra*, p. 255, note 70).

CHANGES IN 1926

The year 1926 was one of financial turmoil in France, and the turnover tax got its share of revamping by desperate legislators who sought to save both the franc and the taxpayers and succeeded completely in neither. They first raised the rates for only part of the turnover-tax payers, attempting to distinguish retail from wholesale sales. At the same time they raised the rates of the luxury-establishments tax, the replacement taxes and the import tax.[90] They also introduced new replacement taxes [91] and levied a restricted export tax. Finally when Poincaré came into power in the fall of the year, the rates of the turnover tax (excepting the luxury taxes) were, on the average, increased, the unhappy distinction between retail and wholesale sales was abolished, and a general export tax [92] was levied.

Initial Rate Change. — In April Parliament raised the rate of the turnover tax from 1.3 per cent to 2 per cent on all sales other than those made at retail or for consumption on the spot, which sales retained the old 1.3 per cent rate.[93] The confusion engendered by the necessity of distinguishing retail sales from all others may easily be imagined. What is a "retail," or "consumption" sale? The Administration decided that the following were examples of non-retail sales, and subject therefore to the new 2 per cent rate: the sale of thread by a spinner to a weaver, although the latter would resell, not the thread, but the cloth made from the thread; the sale of machine tools to one who does not resell them but merely uses them in manufacturing articles which he does sell; the sale of gasoline to a manufacturer who uses it for fuel in his power plant; the sale of food to restaurants.[94] In many of these cases the Administration was flatly contradicting the rules formulated for the application of the "payments taxes" in 1918–1920; at that time, however, it was to the Treasury's advantage to consider as many sales as possible, "retail sales." [95]

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[90] *Cf. infra*, pp. 278, 281, 292 (note 11).

[91] On certain fertilizers, and on coffee and tea (these latter being in effect import taxes). *Cf. infra*, p. 280.

[92] *Cf. infra*, p. 307.

[93] Law of April 4, 1926, art. 57.

[94] *Cf. J.-C.F.*, Div. K, No. 50, for these and other examples, citing the *Instruction* of April 20, 1926.

On the other hand it would seem likely that such as the following would be held retail sales: the sale of tools to one who needs them to repair his own automobile (unless, perhaps, he uses the automobile in business!); the sale of gasoline to a motorist; the sale of food to the housewife (but if she ran a boarding house and fed part of the food to the lodgers —?).

It would have been better had the distinction been between all sales by "retailers," and all sales by others; under the local business tax (*patente*) business men are classed definitely as retailers, wholesalers, etc. This would have expressed more completely the wishes of Parliament, too; for the motive behind the rate discrimination was to favor a certain large class of taxpayers — *i.e.*, retailers as such. As actually adopted, the tax made the rate depend on what happened to the article after it was sold. Suppose A sells gasoline to B; how can he know how much of it B is going to use in his factory engine, and how much in his private automobile? [96]

Luckily for the peace of mind of both the taxpayers and the Administration,[97] this distinction was dropped four months later.

The same law that discriminated in this manner between retail and other sales, showed special attention to the intermediaries, or sellers of services, by raising their rate to 2.5 per cent (levied, of course, on their gross commissions, interest, etc.).[98]

These rate changes, said the law, were to be effective only until December 31, 1926.[99]

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[95] *Cf. supra*, p. 196.

[96] Even more complicated situations than this arose in determining what were retail sales. *Cf. J.C.I.*, June 8, 1926.

[97] *Cf.* complaint by Chéron, of the Senate, in *D.P.*, 1926, *Sénat*, *S.O.*, p. 1160 (No. 484).

[98] Excepting those *façonniers* who, not fulfilling the requirements of the 1923 law (*cf. supra*, p. 245), were subject to the turnover tax.

[99] Newspapers and periodicals, already exempt as to proceeds from sales of copies, were now (law of April 4, 1926, art. 58) favored by specific retention of the 1.3 per cent rate on all their other business, such as receipts from advertising, which might not have been considered "retail," or "consumption" sales. *J.C.I.*, May 22, 1929, p. 260. The law was stretched by the Administration so that the 1.3 per cent rate

Other Rate Changes. — In August[100] Parliament simplified the rate structure considerably. It reduced the intermediaries' rate, and raised the retail sales rate, to 2 per cent, thus reunifying the tax rates. The 2 per cent rate is still in force, and is now virtually the only rate levied under the turnover tax, if one excepts the luxury taxes and the various replacement taxes.[101] One-twentieth of the tax goes to the common fund for départements and communes. These rate changes marked the only important alterations in the turnover tax during the year. A large number of small changes were made, which may be grouped as follows:

Exemptions. — The list of exemptions was extended to include: (*a*) sales of, or importation of, milk, delivered in the natural state (that is, not concentrated, or sweetened with sugar) for human consumption;[102] (*b*) sales by manufacturers, or importation, of toilet articles and perfumeries, except soap costing not more than 3 francs a cake, and dentifrices, which sales and imports now became subject to the same special tax that had been laid upon *specialités pharmaceutiques*.[103]

Administration. — The Registration Administration (which by now had little to do with the turnover tax) was fused, theoretically at least, with the Direct-Tax Administration.[104] Certain rights of communication, possessed by the Registration Administration heretofore only in its dealings with stock companies, were extended to touch all banks.[105] The Administration fixed the limits within which a taxpayer could be excused from paying part of his fine.[106] The manner in which the share of the départements and communes

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applies to certain sales *to* the publications (*e.g.*, newsprint, printing services). This doctrine was expressly confirmed by the law of Aug. 3, 1926, art. 11. *Cf. J.-C.F.*, Div. K, Nos. 13–16.

[100] Law of Aug. 3, 1926, art. 11.

[101] For newspapers, etc., *cf.* note 99 above.

[102] Law of April 4, 1926, art. 57. *Cf. Instruction* of April 20, 1926.

[103] Law of April 4, 1926, art. 55. In effect, the luxury tax on these toilet articles and perfumeries was stepped back to the producer or importer, as had been done with wines and *liqueurs de luxe*, and automobiles. Attempting to collect the tax at this stage, while basing it on retail prices still, has caused some confusion in administration. *Cf. J.-C.F.*, Div. W.

[104] *Décret* of Sept. 17, 1926.

[105] Law of April 4, 1926, art. 32.

[106] *Cf.* Allix and Lecerclé, *op. cit.*, p. 297.

should be divided was fixed by article 11 of the law of March 31, 1926.

Replacement Taxes. — The turnover tax was abolished on sales or imports of certain fertilizers, and coffee and tea, special taxes being levied in its place.[107]

Imports and Exports. — The structure of the special import tax had given much dissatisfaction and in 1926 important changes were made.[108] An export tax, destined to be short-lived, was levied.[109]

CHANGES IN 1927 AND 1928

Since the end of 1926 only three changes of any importance have been made in the turnover-tax system. The export tax has been abolished, the import tax remodeled to a certain extent, and the replacement-tax system extended. The other retouches given to the system have been minor exemptions and a minor change in the rate.

Imports and Exports. — By decree of January 4, 1927, the export tax was suspended.[110]

The changes in the import tax were of such a nature as to take from the merchant importers in the French ports the protection imposed by the "purchase tax" on French consumers who preferred to negotiate through foreign exporters, though as to certain raw materials the merchant importers are still protected by the privilege of exemption upon their first resale in France.[111]

Replacement Taxes. — The most important extension of the replacement taxes has been that to sugar, now taxable at 6 per cent as it leaves the refinery or is imported, while the turnover tax on all sales or imports of sugar is abolished. Other extensions of this principle have been to flour (largely because of administrative difficulties), sulphur, and certain fertilizers not included in the original fertilizer tax, while farmers killing sick or wounded animals have been granted exemption from the slaughtering tax.[112]

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[107] *Cf. infra*, p. 280.

[108] *Cf. infra*, p. 305.

[109] *Cf. infra*, p. 307. Other changes in 1926 which are noted elsewhere: revamping of the luxury tax on automobiles (*infra*, p. 273); the appointment of a special commission to study replacement taxes (*supra*, p. 124); modification of the list of luxury articles (*infra*, p. 267); exemption of transportation charges from tax base of forwarding agents (*supra*, p. 215); merging of turnover tax and other levies on gambling in casinos (*supra*, p. 249).

[110] *Cf. infra*, p. 312.

[111] *Cf. infra*, p. 306.

Exemptions. — With little discussion, both houses adopted a proposal to exempt from the turnover tax: (*a*) receipts from the sale of, and advertisements in, publications of philanthropic and other non-profit organizations; (*b*) receipts of all schools, if not coming from commercial operations; (*c*) receipts of non-profit restaurants for students.[113] At the same time there was extended to merchandise brokers who sell at public auction and who value merchandise in warehouses (*courtiers en marchandises inscrits ou assermentés*), and whose remuneration for these services is fixed by an *arrêté* of the Commerce Minister, the exemption already granted stockbrokers, etc., whose commissions are fixed, not by *arrêté*, but by laws or decrees. The Administration had refused to interpret the existing law so as to include the above *courtiers*.[114]

Sums paid to French shipbuilders by shipowners are exempt as concerns contracts concluded between May 1, 1928, and May 1, 1933.[115] Exemption from the special import tax was granted at the same time [116] to construction material (except machinery and furnishings) used in building ships.

Profits realized by farmers from accessory transport operations are taxable under the salaries and wages schedule of the income tax instead of the business-profits schedule, and hence gross receipts from this source escape the turnover tax.[117]

Millers have been relieved from a strict interpretation of the law, which had made them taxable upon the entire value of the flour they exchanged against wheat, with farmers; at present they are taxable in such instances only upon the value of the milling service they render, even under the new replacement tax.[118] The rules defining artisans and *façonniers* for tax purposes were slightly relaxed[119] and the situation of agricultural coöperatives was more clearly explained.[120] The *forfait*, or estimated-tax-base, limit was raised to 300,000 francs for those buying and selling.[121]

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[112] For legal details of these changes in the replacement-tax system, *cf. infra*, pp. 280, 285; *cf.* also *supra*, pp. 148–156.

[113] Sometimes organized by professors and deans of faculties. *Cf. Déb.*, 1927, *Ch.*, *S.O.*, p. 485. Law of March 26, 1927, art. 60.

[114] *Cf. J.-C.F.*, Div. J, Nos. 68–77 *bis*.

[115] Law of Aug. 1, 1928, art. 14. *Cf. D.P.*, 1925, *Ch.*, *S.O.*, p. 663 (No. 1547).

[116] Art. 13.

[117] Law of Dec. 30, 1928, art. 13. For limitations on this, *cf. J.C.I.*, April 22, 1929, p. 208.

[118] Law of March 19, 1928, art. 30. *Cf. supra*, p. 211.

Rate Change. — Administrative difficulties forced a change in the method of taxing dealers in the grain trade. Commission merchants are now treated as are buyers and sellers, both being taxed at 0.55 per cent on the value of the grain they handle.[122] Certain grains destined for bread, of course, remain entirely exempt as under a previous law.[123] Otherwise the turnover-tax rates have remained unchanged since the August, 1926, law.[124]

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[119] *Cf. supra*, pp. 243, (note 14), 245 (note 23).

[120] *Cf. supra*, p. 104.

[121] Law of March 26, 1927, art. 58. *Cf. supra*, p. 251.

[122] Law of March 26, 1927, art. 61. *Cf. supra*, p. 54.

[123] *Cf. supra*, p. 255.

[124] For changes made as this book goes to press, *cf. infra*, pp. 357–359.

CHAPTER XI

LEGAL DETAILS OF THE LUXURY TAXES

THE 1917 "payments-taxes" law had levied 10 per cent taxes on luxury expenditure. The 1920 law, inaugurating the turnover tax, retained the luxury taxes with practically no changes. They take one of two forms: a tax on retail sales of luxury articles, and a tax on food and lodgings supplied by luxurious hotels, restaurants, etc.

The luxury taxes are an integral part of the turnover-tax system. They supplant the regular turnover tax in the case of such transactions as named above. Thus they are never levied coincidently with the ordinary turnover tax.[1] The responsibility for their payment, as in the case of the regular turnover tax, rests on the seller.[2] Unless specifically noted to the contrary, or unless obviously not relevant, the laws and regulations concerning the turnover tax proper apply with full force to the luxury taxes.[3]

It is necessary to consider each of the two luxury taxes separately.

TAX ON RETAIL SALES OF LUXURY ARTICLES

Taxable Sales. — The tax on luxury articles is collected whenever such objects are sold at retail or for "consumption" — in general, when the sale is made to one who is buying, not merely to resell, but to use the article himself. The seller must be one who has bought the article with intent to resell it. Otherwise, the sale comes under the special luxury tax affecting all sales of luxury articles between *non-commerçants*.[4]

The question as to when a thing is really sold at retail or for consumption is naturally a troublesome one, and has given rise to subtle problems. The tax is levied upon certain kinds of cloth; but if the cloth is sold to a dressmaker who does not resell the cloth as such, but sells a dress made from the cloth, is the sale of the cloth to the dressmaker subject to the luxury tax? Apparently not.[5] But: perfumery was formerly on the luxury list;[6] if perfumery was sold to a barber, who did not resell it as such, but "sold" a shampoo in which he employed the perfumery, was the sale to the barber a retail sale, hence taxable at 10 per cent? Apparently yes — and, of course, the sale of the shampoo (perfume included) was not so taxable at the luxury rate. But if the barber sold the perfumery separately, it was a retail sale, thus taxable at 10 per cent; from which it follows that the sale of this perfumery to the barber could not have been a retail sale.[7] The subtlety of such a doctrine, which makes the question of whether or not the sale to the barber is a retail sale, answerable only in the light of how the barber in turn gets rid of the perfume, is an example of the almost impossible situations that can arise when the tax law attempts to distinguish retail from other sales. Again: is the sale, to a hotel keeper, of luxury furniture a retail (or "consumption") sale? True, the hotel keeper does not resell the furniture itself, but he resells it as part of his hotel service, and does not employ it for his own satisfaction. Nevertheless, the sale to him is taxable at 12 per cent (before 1924, 10 per cent). This is so even if his is a luxury establishment, the receipts from which in turn may be taxed 4 or 13 per cent.[8] An artisan fulfilling the requirements necessary to come under the salaries and wages schedule of the income tax, and therefore ordinarily to escape the turnover tax, is a purchaser "at retail" or "for consumption" when he buys a luxury article,[9] even if he intends to resell it. But if such purchases and resales form such an important part of his business that he should be considered subject to the turnover tax on the resales, his purchases are then not bought at retail or for consumption and the sales to him are taxable only at 2 per cent. In either case, resale by the artisan is taxable; in the former, under the special luxury tax (not a part of the turnover-tax system) on sales between *non-commerçants;* in the latter, under the luxury rate of the turnover tax.[10]

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[1] *Cf. Instruction* of Aug. 29, 1920, art. III.

[2] Under the 1917 law the tax was, legally, one upon the purchaser — hence technically a tax upon expenditure, instead of upon sales. But the Administration could, and did, collect the tax from the seller. *Cf. supra*, p. 195.

[3] *Juris-Classeur Fiscal*, Division L^1, No. 10.

[4] This tax (law of June 25, 1920, arts. 57, 58) is not treated in detail in this book, as it is not an integral part of the turnover-tax system. *Cf. supra*, p. 204, note 12.

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[5] *Cf. J.-C.F.*, Div. L ^{1}, No. 43, citing "*Solution* No. 1272" in *Journal des Contributions Indirectes*, Nov. 23, 1923.

[6] The luxury tax on perfumery has now been stepped back to the manufacturer or importer. *Cf. supra*, p. 261, note 103.

[7] *J.-C.F.*, Div. L ^{1}, No. 41.

[8] *J.-C.F.*, Div. L ^{1}, No. 28, citing statement by Finance Minister, and *Instruction* of Feb. 16, 1921.

[9] As he cannot furnish his supplier with a written statement that he is a *commerçant*. *Cf. infra*, p. 269.

Once it has been decided that a sale is indeed one at retail or for consumption, the question remains: how may one determine that the article sold is a luxury article? Under the 1917 law, a list was drawn up by a commission and enacted into law by Parliament.[11] From 1920 on, however, this list was drawn up in decrees issued by the Minister of Finance. This gives a greater flexibility — especially necessary in the times of rapidly changing price levels, as concerns those goods called *de luxe* because of their price — than was possible under the former system.

As was the case under the payments-taxes régime, articles are called *de luxe* for either of two reasons: because of their very nature, no matter what their sales price (*e.g.*, gold watches), or because they sell above a certain price (*e.g.*, men's suits, if selling above 800 francs).

The Finance Ministers have not issued many decrees, considering the rapid changes in the price level. The first list of luxury articles was drawn up in a decree of June 26, 1920. Three years later (decree of September 7, 1923), the list was completely recast, and was revised again in the decrees of January 19, 1926, and November 19, 1926.[12]

These decrees are subject to legislative ratification, but have the force of law until Parliament rejects them.

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[10] *Cf. J.C.I.*, May 22, 1929, p. 260; *J.-C.F.*, Div. F, Nos. 86, 87.

[11] Law of March 22, 1918.

[12] Revisions concerning special articles were made by the *décrets* of Dec. 24, 1920 (lifting a special export tax on certain luxury goods: *cf. infra*, p. 307); Aug. 17, 1921 (automobiles: *cf. infra*, p. 270, note 24); Sept. 18, 1922 (*couronnes mortuaires*); June 8, 1926 (*les articles de chocolat et les plantes de serre*). The following laws also affected certain luxury articles: laws of March 30, 1923, arts. 1–3 (stepping the luxury tax on automobiles back to the manufacturer: *cf. infra*, p. 271); of April 4, 1926, art. 55 (doing the same for perfumery); of July 13, 1925, arts. 93, 94, and of April 29, 1926, art. 25 (also concerning automobiles: *cf. infra*, p. 273). Cf. *J.-C.F.*, Div. L 1, No. 16.

Importation of luxury articles is subject to the luxury tax, if the article is destined for a *non-commerçant*.

Tax Base. — The tax rate is applied to the total amount received from the sale. This is true even where the article is not *de luxe* unless it is sold for more than a certain amount. For instance: a pair of shoes is *de luxe*, if sold for more than 150 francs. Thus only the regular turnover tax (2 per cent) is levied on the sale of a pair of shoes that retails for 150 francs; but if the customer pays 160 francs for the shoes, the retailer turns over to the Government 12 per cent of 160 francs (not 12 per cent of 160 minus 150 francs, or 10 francs).

In accordance with the general rules in force for the turnover tax, a merchant can not deduct the luxury tax itself from his total receipts to arrive at the taxable gross-receipts figure.

A luxury article may be sold in a non-luxury container — *e.g.*, perfume. In this case the money received for the container is not subject to the luxury tax if it is billed apart from its contents. It pays only the 2 per cent tax.[13]

Exemptions. — The exemptions listed for the turnover tax proper can not, by their nature, apply to retail sales of luxury articles. Exception must be made for export sales: such sales, as concerned certain luxury articles, were taxed for a time in 1920,[14] in contrast to the general rule of the turnover tax. But as concerns domestic sales, every article subject to the retail luxury tax is named in a decree, and no exceptions are made for any of these.

Payment of the Tax. — The regulations covering the turnover tax proper apply here.[15] This includes the *forfait* régime, or payment on an estimated turnover.[16]

To make the true *forfait* system inaugurated in 1924 more flexible, provision has been made for revising the tax base every six months, if it is plain that there is a noticeable variation in the sales of luxury articles. Either the taxpayer or the Administration can initiate this move, during the last two months of each semester, which may result in changing the tax base, not only as regards sales of luxury articles, but all other sales as well. It may even result in the abolition of the *forfait* régime for the taxpayer in question: the Administration may find that the taxpayer's total turnover has risen so much as to be above the maximum limits set for admission to the *forfait;* or the taxpayer may think the Administration's new estimate too high and so renounce the *forfait* (although of course he can appeal to the département commission). This simple provision for revision of the luxury-tax base may therefore have wide-reaching effects on the turnover tax.[17]

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[13] *J.-C.F.*, Div. L 1, No. 57.

[14] *Cf. infra*, p. 307.

[15] *Cf. supra*, pp 228–230.

[16] *Cf. supra*, pp. 250–253.

Means of Control. — The methods of control noted in connection with the turnover tax apply here. In addition there is the requirement, in the case of sales not made at retail and therefore not subject to the luxury rate, that proof be furnished in the shape of a written statement from the purchaser, that the sale is made to a *commerçant* who intends to resell the article. Otherwise the luxury rate may be levied. In 1921 the rigidity of this ruling was relaxed somewhat by a ministerial decision of October 3, which declared that absence of the written statement demanded by the law will not entail subjection to the luxury tax if there is no doubt that the sale was made to a regular dealer in luxury articles, having a regular account with the seller. Furthermore, the written statement does not have to be renewed each year, as was hitherto the case.[18]

Statements or estimates of turnover must distinguish ordinary sales from luxury sales.[19]

The provisions for fines, administration, and legal procedure in case of dispute which are applicable to the turnover tax in general likewise apply to the luxury-articles tax.[20] In contrast to the ordinary turnover tax, however, the luxury-articles tax does not help feed the département and commune budgets. The entire revenue from the tax goes to the State.

The long list of changes detailed chronologically under the section on the turnover tax proper applies to the luxury-articles tax, unless otherwise noted, or obviously irrelevant. However, two types of alterations made during the years following 1920 apply

[17] *Décret* of Nov. 9, 1924, arts. 16–21.

[18] *J.-C.F.*, Div. L ^{1}, Nos. 36–38.

[19] *Cf. supra*, p. 227.

[20] *Cf. supra*, pp. 233–240.

only to the latter tax. These concern: (*a*) changes in rates and (*b*) taxation of automobiles.

Changes in Rates. — By the 1920 law, the rate was fixed at 10 per cent. The *double décime* increase in tax rates made in 1924 [21] applied to the luxury-articles tax, raising the rate to 12 per cent.[22] This rate was untouched during the general rate changing indulged in throughout 1926, and remains at 12 per cent today.[23]

Automobiles. — By Table A of the decree of June 26, 1920, passenger automobiles were declared luxury articles, and as such, taxable at 10 per cent when sold at retail. It made no difference how much the car cost, or whether it was new or secondhand. Retail sales of a chassis or a body, or trimmings (*garnitures*) or accessories (if new) were likewise subject to the 10 per cent tax.[24] Mere repair pieces not sold with the car were not luxury articles and so were subject only to the 1.1 per cent (now 2 per cent) tax.[25] Commercial automobiles (trucks, delivery wagons, etc.) were, however, subject only to the regular turnover tax. This was to cause trouble later on, as such cars were converted by their owners for partial use as passenger automobiles.

[21] Law of March 22, art. 3.

[22] For confirmation of this, *cf. Instruction* of Dec. 6, 1924.

[23] For the rates of the short-lived export tax, *cf. infra*, pp. 309, 310; and for reduction of the luxury rate made as this book goes to press, *cf. infra*, pp. 358, 359.

[24] Examples of *garnitures* and *accessoires:* radiator emblems; cigarette lighters; mirrors, other than the rear-view mirror; trunks, until decree of Jan. 19, 1926, put them in Table B, *i.e.*, taxable if sold above a certain price, and subject to the ordinary rules of the luxury tax (*J.-C.F.*, Div. M, No. 34); tires on rims sold with the car (*ibid.*, No. 98). For an example of an attempt to avoid the luxury tax on tires, *cf. J.C.I.*, Oct. 22, 1928, p. 556. The luxury tax does not apply to automobiles bought by transportation companies regulated or operated by the State, départements, communes, or public hospitals. *Décret* of Aug. 17, 1921 (*J.-C.F.*, Div. M, Nos. 78–88). Nor does the tax apply to automobiles bought by transportation companies receiving a local-government subvention equal to one-half or more of the tax which would be due if this exemption did not apply; law of Aug. 3, 1926 (*cf. J.-C.F.*, Div. M, Nos. 84–86). This exemption does not extend to passenger automobiles bought by the Government and used in administrative service. Thus if the Government should buy cars for its country tax collectors it would pay itself a 10 per cent tax, if we admit the Government's own theory (*cf. infra*, p. 323) that the turnover tax is really borne by the consumer.

[25] *E.g.*, tires, if not sold with a car (*J.-C.F.*, Div. M, No. 98). The Administration and the Chambre Syndicale Patronale des Fabricants d'Accessoires et Pièces Détachées agreed, in Aug., 1923, on a *liste indicative* of *garnitures* and *accessoires* (*cf. J.C.I.*, cited by *J.-C.F.*, Div. M, Nos. 31–37). Repairs so extensive that they lead in

Levied upon retail sales as it was, the luxury tax encouraged an evasion which was rather easily accomplished. Unlicensed automobile dealers, usually of an irresponsible, fly-by-night variety (*marrons*), sold automobiles and slipped out of the Administration's hands.[26] Therefore it was decided [27] to step back the luxury tax and levy it as soon as the automobile left the manufacturer's plant, the tax base being the net sale price received by the manufacturer.[28] The subsequent sale by the dealer to the ultimate purchaser became taxable at only 1.1 per cent (now 2 per cent) instead of 10 per cent. Likewise all imports of new passenger automobiles, chassis, bodies, etc., became taxable at 10 per cent, instead of being, as heretofore, taxable at that rate only if imported direct for the user. Two questions arose here.

First, the luxury tax applied only to passenger automobiles; but how was the manufacturer to be sure that the delivery wagon, for instance, which he sold would not be used instead for passenger service? The solution adopted was that if the manufacturer did not know fairly definitely when he parted with the car what it would be used for, he should pay the luxury tax, and have refunded to him or applied to future tax payments that portion of the tax above the regular turnover-tax rate as soon as he should offer proof that the owner was putting the car to a commercial or semi-commercial use.[29]

Second, who are to be considered "manufacturers"? In general, the term has been taken to mean those who either manufacture or assemble, and sell, the completed car. Thus if a chassis manufacturer buys a body from a body manufacturer, and, assembling the various other parts, sells the completed car, he pays the 10 per

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fact to a replacement of the *garnitures* or *accessoires* can not be granted the exemption, although it seems that the luxury tax should not be levied on that part of the cost representing labor of installation (*J.-C.F.*, Div. M, Nos. 23, 24).

[26] *Cf.* Bokanowski report, *Documents Parlementaires*, 1923, *Chambre*, *Session Ordinaire*, p. 543 (No. 5783); *Débats*, 1923, *Sénat*, *S.O.*, p. 246 (Feb. 7); *J.-C.F.*, Div. M, No. 2.

[27] Law of March 30, 1923, arts. 1–3.

[28] *J.-C.F.*, Div. M, No. 55 *et seq.* The Chamber wanted the tax levied on the basis of the retail price, but the Senate and the Government held out for the factory list price basis. *D.P.*, 1923, *Ch.*, *S.O.*, p. 543 (No. 5783).

[29] *J.-C.F.*, Div. M, No. 106.

cent (now 12 per cent) tax on the sale of the car; the body manufacturer's sale to the chassis maker is taxed at 1.1 per cent (now 2 per cent).[30] But the body manufacturer must receive a statement from his customer to the effect that the latter is going to use the body in assembling a car which, when sold, will pay the 10 (now 12) per cent tax.[31] Likewise, imports of chassis, bodies, etc., by a manufacturer are excused from the luxury rate.[32]

The same law exempted used cars and motorcycles, cyclecars, etc., sold for not more than 5,000 francs at the factory, this limit being later raised to 7,500 francs.[33]

New automobiles in the hands of retailers when the 1923 law was passed were subject to the 10 per cent tax when sold.

In brief, automobiles were now taxed at the luxury rate when they left the factory or were imported, and at the ordinary rate on all other sales, instead of being taxed at the luxury rate on retail sales only and at the ordinary rate on all prior sales. This change was similar to that made five years earlier as to luxury wines and liqueurs,[34] and, like it, was the direct result of administrative difficulties in the application of the luxury tax to retail sales.

If anyone thought the automobile situation had been finally settled by the 1923 law, he was soon disillusioned. Evasion of the luxury tax was still attempted through the purchase of a commercial car and its subsequent habitual use as a passenger car, either with or without actual changes being made on the car by the owner.

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[30] Allix and Lecerclé, *La Taxe sur le chiffre d'affaires*, pp. 200, 201. *Cf.* also *J.-C.F.*, Div. M, No. 16.

[31] *J.-C.F.*, Div. M, Nos. 111–113. The mode of application of the luxury tax as concerned automobiles was outlined by a *note-circulaire* of the Indirect-Tax Administration; *cf. J.C.I.*, Jan. 15, 1924, p. 40, cited by *J.-C.F.*, Div. M, Nos. 93, 94. Note that the Administration worked over the problem with the Fédération Nationale de l'Automobile, du Cycle, de l'Aéronautique et des Transports, representing the taxpayers.

[32] *Cf. infra*, p. 292.

[33] Law of April 29, 1926, art. 28. Note the absurd (from an administrative point of view) doctrine which made the final owner liable for the luxury tax as soon as he added enough accessories, etc., to change, say, a 4,000-fr. motorcycle into one worth 7,500 frs. *Cf.* Allix and Lecerclé, *op. cit.*, p. 200.

[34] *Cf. supra*, p. 201. Wines, it may be noted, were removed from the *de luxe* class in 1923 (law of Feb. 28, art. 9). The rates meanwhile had been raised to 25 per cent on liqueurs, and 15 per cent on wines. The producers or wholesalers who pay this tax do not pay the turnover tax. Law of June 25, 1920, art. 73.

Whenever the Administration detected this, it claimed the right to collect the balance of the tax legally due (luxury tax, minus the ordinary turnover tax already paid) from either the manufacturer or the owner.[35] This point was settled in 1925[36] by making the owner responsible for the tax in such a case. The tax is based on the last sale price, except for very old cars; here the Administration is lenient.[37] Measures of control were added at the same time.[38] No circulation permit will be issued for an automobile without formal proof that the tax has been paid by the manufacturer (luxury tax, if a passenger automobile; ordinary turnover tax, if a commercial vehicle). Furthermore, habitually carrying people in an automobile furnished only with a commercial vehicle permit was made a *contravention*, punishable by a penal fine, a fiscal fine of five times the tax due, and confiscation of the car. These harsh provisions caused considerable ill will among the taxpayers,[39] and to make matters worse there was always the question as to what "habitually" transporting people meant. Thus if a grocery owner took his family out several Sundays or holidays in the store delivery truck on which the manufacturer had paid only the low-rate tax, he came under the penalties enumerated above. But if he merely picked up a neighbor once by chance, although observed by the tax collector, he could feel safe.[40]

So much discontent was caused by these measures,[41] that Parliament decided to offer a concession for good behavior by reducing the tax rate on those cars which were used for passenger service, although built for commercial service. Six per cent tax (collected of course from the manufacturer or importer) is levied[42] on new commercial cars and their accessories,[43] which the purchaser declares will be used at times for the transportation of persons. The manufacturer has to get a written statement to this effect. At the same time the screws have been clamped down even more tightly on would-be evaders by the provision that even *occasional* transportation of persons is illegal unless either the 12 per cent or the 6 per cent tax has been paid.[44] Such a case, for instance, would be that of a semi-commercial car serving at times to carry a traveling salesman and his samples. However, a moving van carrying the necessary laborers does not, it appears, come under this class,[45] because here the transportation of persons is necessary for the transportation of the goods.[46]

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[35] Allix and Lecerclé, *op. cit.*, p. 202; *cf.* also *Déb.*, 1925, *Ch.*, *S.O.*, p. 1290 (Feb. 25).

[36] Law of July 13, art. 93.

[37] *J.-C.F.*, Div. M, Nos. 59, 60.

[38] Art. 94.

[39] *J.-C.F.*, Div. M, No. 51.

[40] *Loc. cit.*

[41] *Ibid.*, No. 8.

[42] Law of April 29, 1926, arts. 28, 29.

[43] *J.-C.F.*, Div. M, No. 73. But when the delivery truck, for instance, has a passenger body put on it, a 12 per cent tax is due on the value of the body — a good example of the minor complications of the tax. *J.C.I.*, Oct. 15, 1928, pp. 546, 547.

In one respect the luxury tax on automobiles has diverged from the basic theory of the turnover tax; it may be collected even if there is no sale. Taxi companies, for instance, often build their own automobiles. Up to 1925 they had apparently escaped the luxury tax, logically enough — for the luxury tax is but a special form of the turnover tax, and the latter is a tax on sales, not on production. But Parliament did not care to see these companies escape the effects of the luxury tax merely because they made their own cars rather than buying them from a manufacturer, especially as they might sell their cars, after some use; and since 1923 the sale of a used car has not been subject to the luxury tax. Thus a considerable number of passenger automobiles might get into the hands of the general public without ever being subject to the luxury tax.

So this tax was levied [47] on the passenger automobiles which such companies produced for their own use. In effect, this merely gave specific mention to one of a general class of cases, for the same law [48] refuses a circulation permit to any passenger car on which the luxury tax has not been paid. Thus an automobile manufacturer must pay the luxury tax on one of his cars which he has reserved for his personal use.[49] Briefly, then, the luxury tax, as applied to automobiles, resembles a production tax more than it does a sales tax. Yet it is not a pure production tax. A manufacturer may produce a car, and as long as he does not sell it in France, or have it used in France, no luxury tax is due.

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[44] Allix and Lecerclé, *op. cit.*, pp. 204, 205.

[45] *J.–C.F.*, Div. M, Nos. 52, 67.

[46] *J.C.I.*, May 22, 1929, p. 260.

[47] Law of July 13, 1925, art. 93.

[48] Art. 94.

[49] *J.–C.F.*, Div. M, No. 47.

In the cases where there is use of the car, but no sale, the tax is based on the inventory value in the manufacturer's hands.[50]

TAX ON FOOD AND LODGING IN LUXURY ESTABLISHMENTS

The second branch of the luxury tax, levied on sales of lodging, or of food or drinks consumed on the premises, made by hotels, restaurants, etc., classed as *de luxe*, suffered little alteration from the system established by the 1917 "payments-taxes" law.

Taxable Sales. — The question of taxable sales hinges entirely upon whether or not the establishment making the sales is considered *de luxe*.

As under the "payments-taxes" régime, this decision is made by special commissions, one for each département. However, the 1920 law (article 64) gave the Government, instead of the taxpayers,[51] the upper hand in these commissions, each of which is now composed of three representatives of the Finance Minister, and three representatives of the taxpayers, with the vote of the president of the commission (always one of the Finance Minister's representatives) deciding the issue in case of a tie.[52]

In another way the 1920 law changed the classification problem. Heretofore there had been but the one rate, 10 per cent; henceforth, two classes of *de luxe* establishments had to be distinguished — those taxable at 10 per cent (at present 13 per cent) and those taxable at 3 per cent (at present 4 per cent).

How have the commissions, in practice, decided the problems of classification? The Indirect-Tax Administration sent to its directors in each département the following information to help them in their decisions, which throws some light on the criteria employed. As to hotels, said the note, but a few belong in the first class. They are characterized by the luxuriousness of their interior layout and furnishings. The presence of large salons, smoking rooms, richly decorated reception rooms, personnel dressed in livery, and similar ostentatious characteristics, distinguish them. Such hotels are ordinarily found only in Paris and the larger watering places. Many of the second-class *de luxe* hotels, on the other hand, will be found scattered throughout the provinces, and frequented by traveling business men and middle-class foreigners. As to restaurants, cafés, bars, etc., the determining characteristics are the scale of prices charged, the luxurious or comfortable character of the furnishings, the appearance of the personnel, and the type of clientele.[53] It appears, however, that while in theory the main determinants should be the luxurious setting in which the lodging, eating, and drinking occur, in practice the département commissions have based their decisions largely on the prices charged.[54] It is at least clear that the size of the profits, or the location of the establishment in question has nothing to do with the problem.[55]

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[50] *Ibid.*, Nos. 57, 58.

[51] Under the 1917 law the business representatives outnumbered the Government officials 5 to 2 on both département and appeals commissions.

[52] Each commission is composed of: directors of the Registration, Indirect-Tax, and Direct-Tax Administrations; two representatives of the business concerned, appointed by the Chambers of Commerce (or in default of this, by the Minister of Commerce); and one representative named by the *grandes associations de tourisme ou les syndicats d'initiative* (or, in default of this, by the Minister of Public Works). The commission sits at the Indirect-Tax Office in the chief city of the département. *Cf. J.-C.F.*, Div. N, No. 45.

Hotels, restaurants, cafés, and bars have been referred to above as *de luxe* establishments. The term may also include, *e.g.*, a sumptuous villa rented for the summer, a luxurious house of prostitution, sanatoriums fitted up for rich patients,[56] and a variety of other places which have as at least one of their chief objects the provision of food, drink, or lodging. The same establishment may be "first-class" (taxed at 13 per cent) part of the year, and "second-class" (taxed at 4 per cent) the rest of the year. Also it may be partly *non-luxe* (taxed at 2 per cent) and partly *de luxe* (taxed at 4 or 13 per cent), as *e.g.*, a rather ordinary hotel which attracts attention by running a luxurious restaurant.[57]

[53] *J.-C.F.*, Div. N, Nos. 18, 57.

[54] *Ibid.*, Nos. 19–22.

[55] *Ibid.*, Nos. 21, 22 *bis*.

[56] Provided, in the case of the sanatorium, that its receipts do not come chiefly from medical treatments, for in that case it would be exempt from the ordinary turnover tax, and such exemption, of course, entails exemption from the special luxury rate. It is important to remember that the luxury taxes are, in reality, merely the ordinary turnover tax with higher rates. *Cf. J.-C.F.*, Div. N, Nos. 14–16, citing a decision of the *Conseil d'État* of Jan. 5, 1923.

[57] *J.-C.F.*, Div. N, Nos. 23, 24.

In case either the taxpayer or the Administration is, or becomes, dissatisfied with the decision of the département commission, appeal may be had to the superior commission sitting at Paris. Such appeals may be made at intervals of one year. This commission's make-up remains practically unchanged from the days of the "payments taxes"; the representatives of the taxpayers are in the majority (five to three). Neither party to the dispute can appear before the commission, which bases its decisions entirely on documentary evidence.[58] Appeal to this commission does not suspend execution of the département commission's verdict, but the *Conseil d'État* has decided [59] that, contrary to the Administration's claim, taxes must be refunded (or levied in addition) if the superior commission overturns the département commission's decision.

Tax Base, etc. — Questions as to the tax base,[60] exemptions,[61] and payment of the tax are settled by the provisions applicable to the turnover tax proper, unless obviously irrelevant.[62] The same applies to methods of control exercised by the Administration, and to fines and penalties, though in the latter case there is the provision that any establishment which advertises itself as *de luxe* lays itself open to classification as such by the commission, unless it is plainly evident that it has, in fact, no such characteristic.[63]

The administration of the tax has been in the hands of the

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[58] *Ibid.*, No. 83 *bis*.

[59] June 28, 1924. Cited in *J.-C.F.*, Div. N, Nos. 68–72.

[60] The receipts from a garage owned by a *de luxe* hotel are not taxed at the luxury rate. *J.C.I.*, Feb. 15, 1929, p. 91.

[61] Note the *ventilation délicate* and *contrôle incessant* necessitated in the case, *e.g.*, where a "tea concert," exempt from the turnover tax, goes beyond its ordinary field and serves a *de luxe* dinner. *J.-C.F.*, Div. N, No. 31.

[62] The taxpayer, of course, can not deduct from his gross receipts any item representing the tax itself. This had been allowed under the "payments-taxes" régime, as the rate was levied on the sales price ex-tax, so that the rate applied to the total gross receipts was not 10 per cent, but 9.09 per cent. *Cf. J.-C.F.*, Div. N, Nos. 11, 128; and *supra*, p. 168. For difficulties encountered during the transitional period of 1920, *cf. J.-C.F.*, Div. N, Nos. 8–10.

[63] Under the "payments-taxes" régime, the commission did not have to inquire further in such a case — the unlucky boaster could be at once put into the taxable *de luxe* class, no matter what the facts were. *Cf. J.-C.F.*, Div. N, Nos. 7, 125, 126.

Indirect-Tax Administration.[64] No part of its proceeds goes to the départements or communes.[65]

Development since 1920. — The *de luxe*-establishments tax has been refreshingly free from alteration since 1920. In 1924 the rates were raised from 3 per cent and 10 per cent to 3.6 per cent and 12 per cent,[66] and in 1926 [67] to 4 per cent and 13 per cent, where they remain at present. No other changes have been made in the application of the tax, though it was a dispute over the taxability of a rented *de luxe* villa, furnished, that brought the *Conseil d'État's* decision that receipts from the renting of furnished apartments are subject to the turnover tax, even though it be merely a case of sub-letting for the summer.[68]

No transaction is ever simultaneously struck by both the luxury-articles tax and the *de luxe*-establishments tax, although in the case of certain articles the taxes may be applied consecutively. Truffles are luxury articles. Sold in a luxury restaurant of the first class, they give rise to the 13 per cent tax if consumed in the restaurant; to the 12 per cent tax, if carried away before eating; but not to both taxes.[69] But the two may be cumulative — *e.g.*, the sale of the truffles to a restaurateur is a retail sale, taxable at 12 per cent; and if the restaurateur's establishment is *de luxe*, he is taxed 13 (or 4) per cent on his sales of food to his patrons.[70] And of course the fact that a luxury article is taxed 12 per cent upon its retail sale does not excuse it from the 2 per cent tax on all preceding sales.

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[64] Since many of the places were already under its control for other tax purposes. *D.P.*, 1920, *Sénat*, *S.O.*, p. 229 (No. 250).

[65] For confirmation of this, *cf.* statement of Finance Minister, cited in *J.-C.F.*, Div. N, No. 35.

[66] The *double décime* — law of March 22, 1924, art. 3.

[67] Law of April 4, 1926, art. 57. To remove all doubt about lodging, food, and drink furnished in *non-luxe* establishments, the law of April 29, 1926, art. 32, declared the receipts from such to be taxable at 1.3 per cent, the rate of the ordinary turnover tax on retail sales.

[68] *Cf. supra*, p. 249.

[69] *J.C.I.*, March 8, 1929, p. 130.

[70] *J.-C.F.*, Div. N, No. 30, citing statement of Finance Minister. But for an opinion to the contrary, *cf. J.C.I.*, March 8, 1929, p. 130.

CHAPTER XII

LEGAL DETAILS OF THE REPLACEMENT TAXES

THE so-called "replacement taxes" (some of which are likewise called "production taxes"), foreshadowed by the changes in the administration of the luxury taxes on wines and on automobiles,[1] were inaugurated in 1925. They seemed to offer a way out for legislators who had promised to abolish the turnover tax, but who realized with uncomfortable clarity that something would have to be put in its place.

All the replacement taxes have these points in common:

A certain commodity is declared entirely exempt from the domestic turnover tax and from the import tax. A special tax is levied upon it at one of the early stages in its commercial evolution within France — *e.g.*, upon sale by the manufacturer. In addition, an import tax of the same or of a similar nature is levied. At present the following commodities are under this régime: coal, coke, briquettes, lignite, *brai minéral*, meat, fertilizers, tea and coffee, sugar, sulphur, and flour.

Since all of these articles are taxed in a similar fashion (with some important differences as concerns meat) they may be grouped together in a discussion of the various phases of the régime — taxable transactions, tax base, exemptions, etc.

Taxable Transactions. — Coal, coke, lignite, briquettes,[2] and the residue from distillation of coal in coke ovens known as *brai minéral*,[3] are subject to a replacement tax levied upon sales made by the mine or coke plant and upon imports. "Sales" here is extended to include delivery of coke to a factory even though the coke producer and the factory are under the same management, as in the case of many steel mills. The tax took effect October 1, 1925, and applied to all deliveries made after that date, even though the sales contract was concluded before then.[4]

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[1] *Cf. supra*, pp. 201, 271.

[2] Law of July 13, 1925, art. 142. Made applicable in Alsace and Lorraine by *décret* of Nov. 28, 1925.

[3] Law of Dec. 19, 1926, art. 7, taking effect Jan. 1, 1927.

A slaughtering tax [5] (*taxe d'abatage*) is levied upon the slaughtering of cattle, sheep, hogs, and horses,[6] the meat from which is destined for human consumption. Importation of meat from these animals is also taxed. The tax took effect on October 1, 1925.

Fertilizers [7] are taxable upon production [8] within France, or upon importation. The starting point, April 1, 1926, unlike that of the slaughtering tax, refers to all transactions in which delivery or payment is made after that date.[9]

Coffee and tea [10] are taxable upon importation. They are not produced within France. The new tax took effect April 1, 1926.

Sugar [11] is taxed in the hands of those who pay the consumption tax (*droit de consommation*, an old established special indirect tax) on this commodity. In effect, this means that the sugar is taxed as it leaves the factory or refinery, destined for consumption; or upon its importation. This tax began its life on October 1, 1928.

Sulphur, like coffee and tea, is taxable upon importation.[12] This régime took effect July 1, 1928.

Flour, semolina, and refuse wheat in general, resulting from the milling of grain,[13] are taxed when they are handled by the miller, or when they are imported if such imports do not go to millers.[14]

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[4] *Cf.* Gardes and Morillot, *L'Impôt sur le chiffre d'affaires*, p. 335.

[5] Law of July 13, 1925, art. 143. Made applicable in Alsace and Lorraine by *décret* of Nov. 28, 1925.

[6] The *décret* of Oct. 3, 1925, giving details for the application of the tax, included (art. 1) goats in this list, and extended the classification of *Equidés* to include mules and asses. The Administration later admitted it had no power to include goats in the replacement tax (the law saying nothing about them); they remain under the ordinary turnover-tax régime. *Journal des Contributions Indirectes*, Nov. 8, 1928, p. 577. *Cf.* also *Juris-Classeur Fiscal*, Division J, No. 160.

[7] *I.e.*, nitrates of soda, nitrates of lime, cyanamide, sulphate of ammonia, potash salts K^2O, phosphatic slag, superphosphates, and oil cakes (whether used as feed or directly as fertilizer — *cf. J.-C.F.*, Div. J, No. 180). Law of April 4, 1926, art. 60. Sulphate of copper was added to this list by the law of Dec. 27, 1927, art. 28. Chlorohydrate and nitrate of raw ammonia, ureas, phosphates, dried blood, sugar-beet spoilage, crude ammonia, fish scrap, wool scraps, and all mixtures of fertilizers were added by the law of March 30, 1929, art. 32.

[8] The law of April 4, 1926, levied the tax upon sales, but the law of March 30, 1929, altered this as above.

[9] *J.-C.F.*, Div. J, No. 183; Div. K, No. 35.

[10] Law of April 4, 1926, art. 60.

[11] Law of Dec 27, 1927, art. 29.

[12] Law of March 19, 1928, art. 31.

Tax Base and Rates. — (*a*) Coal Tax. The rate of the coal tax is now 2.5 per cent, raised to this from the former rate of 1.8 per cent, by the law of April 4, 1926, article 57.[15] The old rate applied to transactions within France concluded before March 31, 1926, if delivery were made before June 30, 1926; and to imports sent directly to France before April 4, 1926, if declared at once for "consumption" upon arrival.[16]

This rate is levied on the total gross receipts received from the sale, by the producer, of coal, coke, etc. In case of imports the tax is levied upon value at time of importation. When coke is transferred to a factory under the same management, the rate is applied to the market value of the coke.[17]

(*b*) Slaughtering Tax. The rates of the slaughtering tax, in contrast to those of the other "production taxes," are specific. At present they are as follows:

Calves and sheep: 20 centimes per kilogram (formerly 15 centimes).[18]
Cattle other than calves: 12.5 centimes per kilogram (formerly 10 centimes).
Hogs: 25 centimes per kilogram (formerly 10 centimes).
Horses: 10 centimes per kilogram (rate unchanged).

The tax is levied on the total weight of the live animal just before slaughtering. In certain cases where no scales are available for weighing the animal, its total live weight is estimated from the weight of the resulting meat. The rule adopted for this is that the live cattle, sheep, and horses weigh twice as much as their yield in meat, while the live hogs weigh one-quarter again as much as the yield in pork.[19]

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[13] For detailed list of grains, *cf. arrêté* of Jan. 3, 1929, art. 1.

[14] Law of Dec. 30, 1928, art. 31. For exemption granted bread, *cf. supra*, p. 222.

[15] This law made the 2.5 per cent rate applicable only to Dec. 31, 1926; the law of Dec. 19, 1926, art. 7, extended it to Dec. 31, 1927; the law of Dec. 27, 1927, art. 27, extended it indefinitely. For the increase in the rate made in 1929, *cf. infra*, p. 358.

[16] Law of April 29, 1926, art. 32.

[17] *J.-C.F.*, Div. K, No. 22.

[18] The rate changes were made by the law of April 4, 1926, art. 57, applicable only to Dec. 31, 1926. The new rates were extended to Dec. 31, 1927, by the law of Dec. 19, 1926, art. 7, and were extended indefinitely by the law of Dec. 27, 1927, art. 27.

The rates on importation of meat are also specific. They are as follows:

Veal and mutton: 40 centimes per kilogram (formerly 30 centimes).

Beef and horse meat: 25 centimes per kilogram (formerly 20 centimes).

Pork: 50 centimes per kilogram (formerly 20 centimes).

By reference to the rates charged on the live weight of animals slaughtered in France, it can readily be seen that the rates of the import tax on meat are calculated so as to be of exactly the same burden as the slaughtering tax, assuming that for all animals (including hogs) the live weight is twice as great as the weight of the resultant meat.[20] This is true of the new rates as it was for the old, save for horses and pork. Horse meat is, by this calculation, taxed more heavily upon importation than when produced within France. The same is true of pork, if it be assumed that the meat weighs 80 per cent as much as the hog it comes from.

(*c*) Fertilizer Tax. The rate here is 3.5 per cent,[21] levied on the gross receipts from sales by producers, or upon imports. The rate has remained unchanged since the tax was established. If there is no sale, the tax is levied on the market value of the products.[22]

(*d*) Coffee and Tea Taxes. Since neither of these commodities is produced in France, the "production tax" here takes the form of an import tax — 8 per cent on coffee, 7 per cent on tea.[23]

(*e*) Sugar Tax. The tax rate is 6 per cent, and is applied in a rather unusual manner, *i.e.*, to the value of the sugar as calculated by finding the average price of white sugar No. 3 available during the season (September 1 of previous year to August 31 of current year), as quoted on the *Bourse de Paris*. This price includes the heavy special indirect tax, or *droit de consommation*, not to be confused with the new "production tax." The average price so found is published in an official *arrêté* each September, and is applicable for the tax period running from October 1 to September 30 of the next year.[24]

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[19] *J.-C.F.*, Div. K, No. 85.

[20] *Cf.* Allix and Lecerclé, *La Taxe sur le chiffre d'affaires*, p. 192.

[21] Finally levied for an indefinite period by the law of Dec. 27, 1927, art. 27.

[22] Law of March 30, 1929, art. 32.

[23] Finally levied for an indefinite period by the law of Dec. 27, 1927, art. 27.

(*f*) Sulphur Tax. Raw or refined sulphur is taxed at 5 per cent, upon importation.

(*g*) Flour Tax. Flour, semolina, etc., are taxed 2 per cent upon their value when disposed of by the miller or imported. Not only the flour, etc., sold by the miller is taxable, but also that which he keeps for his own use, or transfers without sale, or transforms — in short, the base is the value of the total amount of flour, etc., which a miller handles. If the miller's flour goes to farmers in exchange for grain which they bring to be milled, the tax is based only on the value of the miller's services.[25]

In every case — save perhaps the sulphur and flour taxes — it appears that the imposition of the replacement taxes resulted in a lighter theoretical tax burden (no account being taken of evasion).[26]

Exemptions. — Two types of questions arise here. As has been noted, by virtue of being put under the régime of a replacement tax, a commodity is no longer subject to the domestic turnover tax or to the import-tax branch of the turnover-tax system. But there are often rather delicate situations to clarify in this matter. In the second place, there occur cases when exemptions are allowed from these new taxes themselves, in which cases neither the ordinary turnover tax nor the replacement tax is applied.[27]

(*a*) Coal Tax. There is no question as to the complete exemption of all sales, commissions on sales, and imports of coal, coke, etc., from the turnover tax, now that the replacement tax is in force.[28] By-products of coal, however, remain subject to the turnover tax.

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[24] The first *arrêté* appeared Sept. 12, 1928, stating the average price to be 252.25 frs. per 100 kilos, or 377.25 frs., *droit de consommation* included (*Journal Officiel*, Sept. 13, 1928). This is per kilo of refined sugar, or if not refined before consumption, per kilo of raw sugar. For minor exceptions, *cf. J.C.I.*, Oct. 8, 1928, p. 528.

[25] In line with the law of March 19, 1928, art. 30. *Cf. supra*, p. 263; and *J.C.I.*, Nov. 1, 1928, p. 562.

[26] For further consideration of this point, *cf. supra*, pp. 138, 145.

[27] In no case are sales for export subject to any of the replacement taxes. For special rules as to sugar exports, *cf. J.C.I.*, Oct. 8, 1928, p. 528.

[28] The exemption did not apply to sales concluded before Oct. 1, the cash payment for which had not been made by then. Gardes and Morillot, *op. cit.*, p. 335.

Exemption from the replacement tax itself is specifically given (*a*) for coal consumed by the producing [29] mine (even if imported) [30] or by the miners, (*b*) coal sold to another mine operator, and (*c*) coal sold to, or imported by,[31] a manufacturer of coke (since the coke itself is taxed when it leaves the producer's hands).

(*b*) Slaughtering Tax. The levying of the slaughtering tax has brought with it exemption from the ordinary turnover tax of all sales, commissions on sales, and imports of animals destined for the slaughterhouse, and of the resulting fresh meat. "Fresh meat" means strictly what it says — even though the slaughtering tax has been paid, the resulting meat is subject to the regular turnover tax if it is salted, smoked, or prepared [32] (it may be frozen without losing the exemption). Also, the first sale of the remains of the animals other than the meat — *e.g.*, the hide — is exempt from the turnover tax.[33] The exemption of dealings in animals holds good even if the sale is not the one made directly to the slaughterhouse, save in the case of horses.[34]

The only question of exemption from the slaughtering tax itself arises when a farmer, for instance, kills his cow and serves the meat to his family, or sells some or all of it to his neighbors. The Administration has taken the liberal view that no tax at all should be due if the raiser of the animal kills it for use by his own family; but if he sells even part of it to anyone, the tax is due on the whole animal (save in case of pigs, where part of the pork is sold to neighbors, etc., who do not intend to resell it.)[35] The law of December 27, 1927, article 31, gave the farmers some relief by exempting from the slaughtering tax animals killed because of accident or sickness, provided the owner is not a *commerçant* (butcher, etc.), and does not sell the meat to someone who will resell it.[36]

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[29] Law of July 13, 1925, art. 142. This exemption would seem to be implied in the language levying the tax, which speaks of the turnover tax as being shifted back (*reportée*) to the sales (*affaires de vente*) made by mine operators or coke producers, or back to the stage of importation.

[30] *J.-C.F.*, Div. K, No. 24.

[31] *Ibid.*, No. 23.

[32] Save in the case of cooked, salted, or prepared pork. Law of April 4, 1926, art. 57. This favoritism shown to pork has caused some delicate administrative problems to arise. Pork butchers may sell all kinds of prepared meat. They are exempt as to their sales of anything containing pork, and indeed it appears that the Administration has given up attempting to tax such shops at all, thereby taking the law into its own hands. *Cf.* Allix and Lecerclé, *op. cit.*, p. 193. But a manufacturer — *e.g.*, of sausages — can gain the exemption only if his product contains at least 60 per cent pork. *J.-C.F.*, Div. J, No. 166. Since cooked, etc., pork, like fresh meat, is exempt from the turnover tax, it is taxed, again like fresh meat, upon importation under the special rates noted above. *Cf. Instruction* of April 20, 1926.

[33] But subsequent sale, or sale after transformation (*e.g.*, grease from the animal made into tallow: *J.-C.F.*, Div. J, No. 170 *bis*), is subject to the regular turnover tax.

[34] *Décret* of Oct. 3, 1925, art. 1.

(*c*) Fertilizer Tax. Complete exemption from the turnover tax proper is granted to all sales, commissions on sales, and imports of the fertilizers subject to the replacement tax. Exemption from the turnover tax is also granted to sales of bone and pyrites made to a manufacturer of superphosphates.[37] Bone and pyrites are not subject to the replacement tax, but superphosphates are.

As with the coal tax, sales by producers to other producers are exempt from the replacement tax, in addition to being free from the turnover tax.[38] Likewise, imports to producers who pay the tax when they sell the fertilizers are exempt.[39]

(*d*) Flour Tax. Dealings within France and imports of flour, semolina and refuse grains are exempt from the turnover tax; note, however, that sales of grain are not exempt from the turnover tax, unless by the law of 1924.[40]

Deliveries between millers are exempt from the replacement tax, as are also imports by millers and flour produced by certain milling coöperatives.

(*e*) Coffee and Tea, Sugar, and Sulphur Taxes. Complete exemption from the turnover tax proper rules in these cases as with the others mentioned above; with the important exception that *infusions* of coffee and tea (as sold in a restaurant) still pay the turnover tax.[41]

In certain cases the long-established *droit de consommation* is not due on sugar, and this brings with it exemption from the 6 per cent tax.[42] No other exemption from the replacement taxes themselves is allowed for the above commodities. As to sugar, however, manufacturers of chocolate, jams, biscuits, pharmaceutical products, lemonade, etc., syrups, liqueurs, invert sugar, condensed milk, sweetened flour, and champagne and other sparkling wines,[43] are entitled to a payment or *ristourne* from the Administration equal to one-half of the new production tax paid by the sugar refiner or importer. The purpose of this is not to burden unduly such manufacturers, as their products are not exempt from the turnover tax; yet one of the raw materials they use is now made more costly by the heavy production tax.[44] This is restricted to those who use at least twelve *tonnes*[45] (chocolate manufacturers), three *tonnes* (biscuit makers), or six *tonnes* (all others) of sugar a year. The *ristourne* is made by set-off against the turnover tax due by these manufacturers on their sales.

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[35] *J.-C.F.*, Div. K, Nos. 80–82.

[36] The Administration had already granted this exemption if the resulting meat was clearly unfit for human consumption. *J.C.I.*, Oct. 8, 1927, p. 600.

[37] Law of April 4, 1926, art. 60; law of March 31, 1929, art. 32.

[38, 39] Not specifically by law, but by administrative interpretation of the law. *Instruction* of April 20, 1926. *Cf. J.C.I.*, May 1, 1929, p. 228.

[40] *J.C.I.*, May 1, 1929, p. 228.

[41] *J.-C.F.*, Div. J, No. 176.

Payment of the Tax. — The ordinary rules of payment applicable to the turnover tax proper apply to the replacement taxes, with exception of the slaughtering tax and the sugar tax. The slaughtering tax is legally due by the owner of the animal at the time it is slaughtered. A statement must be sent to the Administration within ten days following each month (each fortnight, if the slaughtering is done in cities of more than 100,000 population), showing the slaughtering operations carried on during that month (or fortnight), along with payment of the tax due on such operations.[46] The sugar tax is paid at the same time as the special indirect tax, or *droit de consommation.*

Payment of the other replacement taxes is on a monthly basis, save for imports: here payment is required as soon as the goods enter France. The main difference here between the replacement taxes and the turnover tax is that the *forfait* system (payment on an estimated tax basis, with no bookkeeping requirements) does not apply.

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[42] *J.C.I.*, Oct. 8, 1928, p. 528.

[43] All but the first three were added by the law of June 30, 1928, art. 16. For details of application *cf. arrêté* of Sept. 10, 1928. Also *cf. J.C.I.*, Oct. 8, 1928, p. 529; Nov. 8, 1928, p. 578; Nov. 15, 1928, p. 587.

[44] *Cf.* explanation by a *Directeur-Général* of the Tax Administration, *Débats*, 1927, *Chambre, Session Extraordinaire*, p. 3853 (Dec. 11).

[45] One *tonne* equals 1,000 kilos, or 2,204 lbs.

[46] *Décret* of Oct. 3, 1925, arts. 2, 5–7.

Means of Control. — Here again, the rules of the turnover tax proper are applicable, but special measures have been added in some cases. On the whole, the records which a replacement-tax payer must keep are more varied and detailed than those required of a turnover-tax payer. Under the new milling tax, for instance, the miller must keep not only a record of gross sales, but also a record of the total weight of his various types of product, including not only that sold, but that which is delivered without sale, or used by himself.[47]

Sales of pyrites and bone to one who combines them to produce superphosphates are free from both the turnover tax and the replacement tax on fertilizers, as noted above. This double exemption applies also to imports by a producer of superphosphates. But that the Administration may be sure the pyrites and bone are indeed to be used in producing superphosphates, elaborate methods of control have been devised. Thus, in case of sales within France, the seller of the pyrites and bone must give the Administration duplicate copies of a sworn statement by the purchaser that he (the purchaser) will pay the turnover tax proper on such amounts of the pyrites and bone as he does not in fact use in the production of superphosphates. Every three months the Administration checks up on the purchaser, calculating on the basis that for every 100 kilograms of superphosphates produced, there is used 30 kilograms of pyrites, or 100 kilograms of bone.[48] The seller of the pyrites and bone must keep a separate list of such sales to manufacturers of superphosphates, and open a special account with such manufacturers. When a manufacturer of superphosphates imports his own pyrites and bone, he must, if he is to avoid paying the regular turnover import tax on these articles, apply to the customs office and submit a *visa* from the Indirect-Tax Administration proving that he is a manufacturer of superphosphates. For each importation he then submits a sworn statement that the pyrites and bone will be used in producing superphosphates, and guarantees to pay the 2 per cent import tax on such quantities as are not used for this service (and the Indirect-Tax Administration checks up on this).[49]

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[47] *Cf. arrêté* of Jan. 3, 1929, arts. 3, 6, 7, 9.

[48] *J.-C.F.*, Div. J, No. 187.

Similar methods of control are used for the exemption of imports of fertilizers by fertilizer producers who pay the replacement tax when the fertilizers leave their factories; and for the exemption from the replacement taxes accorded to sales between such manufacturers.[50]

Somewhat similar methods of control are used to guard against abuse of the exemption from the coal tax accorded to sales between mine operators or coke manufacturers,[51] accorded to mines which import coal, and accorded to coke plants which import coal.[52]

Whoever is engaged in slaughtering animals must make known his existence to the Indirect-Tax Administration. Private (as contrasted with public) slaughterhouses must enter on a special register, before each operation of slaughtering, the weight of the animal to be killed, and the name and address of the person for whose account the slaughtering is to be done. Agents of the Indirect-Tax Administration have free access, for all necessary verifications, to both public and private slaughterhouses.[53]

Fines, and legal procedure in case of dispute are governed by the same rules that apply to the turnover tax proper. The administration of the replacement taxes is in the hands of the Indirect-Tax and the Customs Administrations.

Distribution of Proceeds. — Only two of the replacement taxes contribute to the local funds. When the coal tax was first levied, the rate was 1.8 per cent. Of this amount, slightly over 8 per cent (15 centimes out of every 2 francs 50 centimes collected) went to the common fund for départements and communes. The rate was raised to 2.5 per cent in 1926, but only 15 centimes out of every 2 francs 50 centimes collected, or 6 per cent of the total proceeds, goes to the common fund for the local bodies.

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[49] For further details *cf. Instruction* of April 20, 1926.

[50] For further details *cf. Instruction* of April 20, 1926.

[51] For details *cf. J.-C.F.*, Div. J, No. 154.

[52] For details *cf. J.-C.F.*, Div. K, Nos. 23, 24.

[53] *Décret* of Oct. 3, 1925, arts. 3, 4, 8, 9. As there is no *sécret professionnel* in the turnover-tax system, the State's agents can reveal to the communal officials any facts they have found which may help the latter collect their similar local taxes. *Cf. J.-C.F.*, Div. K, No. 94. The *sécret professionnel* is sometimes an important matter in the collection of income taxes.

The rate of the sugar tax is 6 per cent; out of every 6 francs collected, 30 centimes, or 5 per cent of the total proceeds, goes to the common fund for the local bodies.

CHAPTER XIII

LEGAL DETAILS OF THE IMPORT AND EXPORT TAXES

The Import Tax

Taxable Transactions. — The import tax (not to be confused with the ordinary customs duties) was levied by the same 1920 law [1] that instituted the domestic turnover tax, discussed in the preceding pages.

In distinct contrast to the turnover tax proper, the import tax has nothing to do with sales. The importation of the goods is sufficient, and is the only occasion for the levying of the tax.[2] Thus an American firm may send goods to its branch in Paris: the import tax is collected the moment the merchandise is introduced into France. If the French branch then sells the goods in Paris, it must of course pay the regular turnover tax too. Again, in contrast to the turnover tax proper, the law of the import tax is not so worded that a large class of goods (*e.g.*, farm products, goods sold by one who had not bought them with that end in view, etc.) automatically escapes the tax. The field of the import tax is all-inclusive as far as tangible goods (*objets ou marchandises*) of any kind are concerned, save in the cases where specific exemptions have been granted. That this phrase *objets ou marchandises* covers many things can be seen from the court decision that electric power sent over the border into France is subject to the import tax.[3]

The tax law itself is impersonal to a high degree; it names no person as being responsible for payment of the tax. Hence the Administration has drawn the conclusion that in fact the one responsible is the person in whose name the goods are brought through customs, whose name is on the *déclaration en douane*. This might be, of course, either the foreign producer or manufacturer, his commission agent or broker or employee, or the French purchaser.[4]

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[1] Law of June 25, 1920, art. 72.

[2] *Cf.* court decisions cited in *Juris-Classeur Fiscal*, Division T, Nos. 31, 48; also *ibid.*, Nos. 41, 52. From this it follows that all goods brought into France on or after July 1, 1920, were taxable.

[3] *Ibid.*, No. 49 *bis*.

The import tax differs from the customs duties in that (*a*) there is no "free list" of non-taxable goods in the ordinary sense, (*b*) the rates are *ad valorem* instead of specific[5] and there is no maximum-minimum tariff, and (*c*) the base upon which the percentages are levied is higher than in the case of customs duties, for it is the value of the goods at the port plus customs duties and certain internal taxes. However, it is essentially an addition to the customs duties, after all, and has been so regarded by other nations.[6]

One word requires further definition. What is meant by "importation"? Briefly, nothing is "imported" into France until it is put on the French market to be sold, or brought into France to be used there. Thus, there is no "importation" if the goods immediately upon arrival are stored in a place guarded by the customs (*entrepôt*[7] or *dépôt*); or shipped directly across France to another country under regulation (*transit*); or reshipped abroad direct from the customs house (*transbordement*); or allowed the privilege of being worked up or transformed in France preliminary to reshipment abroad as finished goods (*admission temporaire normale*).[8] But if the goods at any time cease to conform to any of these regulations while in France, they become "imports" and taxable as such.[9] "France" here means continental France, including Corsica, but excluding the colonies, protectorates and Morocco.[10]

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[4] *Ibid.*, Nos. 45, 46.

[5] Save in the case of meat. *Cf. supra*, p. 282.

[6] *J.-C.F.*, Div. T, No. 38.

[7] The *entrepôt* régime is sometimes allowed when the warehouse is not directly guarded by customs officials (*entrepôt fictif*).

[8] As in the United States, where much "milling in bond" is done at Buffalo, Canadian wheat being admitted to the United States duty free on the understanding that the resulting flour will be sent abroad. The general French rule is that reëxportation must occur within six months. If the imported goods pay no customs duties of any kind, they are instead put under the régime of *soumission cautionnée;* here likewise, the delay allowed is six months (capable of extension), though it used to be one year, and was for a while two years. *Cf. J.-C.F.*, Div. T, Nos. 200–225; Gardes and Morillot, *L'Impôt sur le chiffre d'affaires*, pp. 370, 371; and *supra*, p. 183. Strictly speaking, *admission temporaire* does not operate to suspend importation in a legal sense, as does the *entrepôt* régime; hence goods sold in France, though still in a status of *admission temporaire*, are subject to the domestic turnover tax. *Cf.* Gardes and Morillot, *op. cit.*, pp. 368, 369.

Tax Base and Rates. — So far the "import tax" has been spoken of in the singular, and for most purposes it is convenient to look upon it as one tax. But like the domestic turnover-tax system, in reality it comprises a group of taxes, as is seen at once when the tax rates are considered. It is composed, in fact, of the following taxes:

A tax on all goods not subject to the special taxes mentioned below. The rate is 2 per cent.[11]

A tax on luxury articles destined immediately for someone who is getting them for his own personal use. The rate is 12 per cent. If the luxury goods are going first to a *commerçant* who intends to resell them, only the ordinary 2 per cent tax is levied,[12] and the domestic luxury tax is collected on the later retail sale within France.

A luxury tax on passenger automobiles (12 per cent), and on *automobiles mixtes* [13] (partly passenger, partly commercial; 6 per cent), no matter to whom the automobiles are going. Bodies, chassis, trimmings and accessories pay only 2 per cent if going directly to an automobile manufacturer, who then pays the 12 per cent tax when he sells the completed passenger automobile (or the 6 per cent tax, if a semi-passenger automobile). This must be proven by a *certificat du service* from the Indirect-Tax Administration. Otherwise, the bodies, chassis, etc., pay 12 per cent upon importation.[14]

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[9] *Cf. J.-C.F.*, Div. T, No. 50.

[10] *Ibid.*, Nos. 57-59.

[11] Originally 1.1 per cent. The law was obscure, and the rate might have been taken as being 1 per cent; for discussion and settlement, *cf. ibid.*, No. 111. The rate was raised to 1.3 per cent by the law of March 22, 1924, art. 3; and to 2 per cent by the law of April 4, 1926, art. 57. The 2 per cent rate applied to all goods "declared for use" in France on and after May 11, 1926, unless it could be shown the goods had been shipped from abroad direct to France before April 4, 1926, and put on the French market immediately upon arrival. Law of April 29, 1926, art. 32.

[12] With safeguards to insure later collection at luxury rate.

[13] "New or used," says the *décret* of codification, Dec. 28, 1926. It would seem this is incorrect, since the last classification decree for luxury articles (Nov. 19, 1926), mentions only new automobiles, in consonance with the law of March 30, 1923, art. 1. *Cf.* also *Revue de l'Enregistrement*, 1923, art. 7728, p. 218.

[14] If the chassis (frame mounted on wheels with motor installed) is imported by a body manufacturer or a private owner to have mounted upon it a commercial body, only the 2 per cent tax is levied, provided the importer guarantees to pay 12 (or 6) per cent minus the 2 per cent already paid, if proper use is not proven within six months. *Cf. J.-C.F.*, Div. T, Nos. 134-144.

A luxury tax of 12 per cent on pharmaceutical and perfumery and toilet articles, save those going to French manufacturers, who then pay the tax when these articles leave their hands.

An 8 per cent tax on all coffee, and a 7 per cent tax on all tea entering France (in return, sales within France of coffee and tea are exempt from the turnover tax).

A 6 per cent tax on sugar entering France (in return, sales of such sugar within France are exempt from the turnover tax). The value of the sugar for tax purposes is determined in the same manner as for the domestic tax.[15]

A 5 per cent tax on sulphur (raw or refined) entering France (same exemption, in return, as above).

A 3.5 per cent tax on certain fertilizers entering France,[16] unless they are sent directly to a manufacturer of fertilizers, who then pays the 3.5 per cent tax when the fertilizers leave his factory (such fertilizers are exempt from the regular 2 per cent turnover tax on sales in France).

A 2.5 per cent tax on coal, coke, lignite, briquettes and *brai minéral* imported, unless sent directly to a producer of these commodities, who then pays the 2.5 per cent tax when they leave his hands (in return, sales of these commodities in France are exempt from the regular turnover tax).

A specific tax on fresh meats (which are exempt from the domestic turnover tax).[17]

The value of the merchandise at the customs, after the regular customs duties and indirect taxes have been paid, is used as the tax base for these percentages. Since the import tax has nothing to do with sales, no sales figures or gross receipts can be taken as the base. The value is determined by the invoice, corrected if necessary through information given by current commodity price quotations (*mercuriales, cours officiels*), and "all other documents" necessary.[18]

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[15] *Cf. supra*, p. 282.

[16] For list of these *cf. supra*, p. 280, note 7. This does not include bone and pyrites, which therefore pay only the regular 2 per cent import tax, and are exempt even from this tax if they are going directly to a manufacturer of superphosphates, whose product (made from these elements) is then subject to the replacement tax of 3.5 per cent upon leaving the factory.

[17] For rates, *cf. supra*, p. 282. All these special import taxes were levied to complement domestic taxes of the same kind, and were introduced simultaneously with the latter. *Cf.* sections on luxury taxes and replacement taxes, *supra*, Chap. XI and Chap. XII.

It is important to note that the value is reckoned after regular customs duties[19] and so-called *droits à la consommation ou à la circulation* have been paid. These latter "consumption" or "circulation" taxes, not to be confused with the various levies in the turnover-tax system, are a part of the many-branched *contributions-indirectes* system.

Thus an article worth $100, before entering France, and subject to a customs duty of $50 and to an "interior consumption or circulation tax" which must be paid at the moment of importation,[20] of $10, is taxed — as concerns the import tax we are considering — on a basis of $160.

Containers are subject to the tax, regardless of the fact that later they may be re-exported, save in the case of wine casks. Although containing luxury articles, they may be taxed at only 2 per cent, if listed separately from their contents on the invoice.[21]

Exemptions. — As might be expected, the specific exemptions noted for the domestic turnover tax do not apply to the import tax, unless also specifically noted for this latter levy. Many of those exemptions could find no application in case of importation — *e.g.*, exemption of receipts from railroad traffic, from certain services (stockbrokers, etc.) where the fees charged are fixed by the State. Fundamentally, of course, there would be the difficulty that exemptions from the domestic turnover tax apply to certain classes of sales; and the import tax has nothing to do with sales.

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[18] *Arrêté* of Nov. 6, 1926, art. 6. *Cf.* also the *observations préliminaires du tarif officiel des douanes* for this and other points on the import tax. *Journal Officiel*, 1921, *Annexes*, p. 1131 *et seq.*

[19] Not including, usually, the host of minor importation duties such as *la taxe de statistique, la taxe sanitaire, les taxes locales de péage*, etc. *Cf. J.-C.F.*, Div. T, No. 74.

[20] Some of these circulation, etc., taxes do not have to be paid at the moment of importation — *e.g.*, wines sent to wholesale merchants who enjoy a special arrangement as to when the tax shall be paid. In such cases they are not, of course, included in the tax base for the import tax. In the example just given, the base would be $150, instead of $160. *Cf. ibid.*, No. 73.

[21] *Ibid.*, Nos. 85–88. For special rules governing valuation of coal, deliveries in kind from Germany as reparations payments, and certain shipments of petroleum and sugar, *cf. ibid.*, Nos. 89–92.

In general, the specific exemptions granted from the import tax are of two kinds: those noted in the law, and those granted by special rulings of the Customs Administration, which collects the tax. The first class, those noted in the law, comprises:

Certain kinds of wheat (*blés tendres*) and rye, if destined for use in bread. Freedom from the import tax was granted them by the same 1924 law that exempted them from the domestic turnover tax.[22]

Certain imports connected with erecting monuments to the war dead.

Gold in any form, except when made into jewelry, etc.[23]

Other exemptions are granted only because the imported article is subject at a later stage to a special tax serving to replace the import tax. Instances of this in the case of certain fertilizers, bone and pyrites, coal, and pharmaceutical, perfumery, and toilet articles have been noted above,[24] the exemption depending upon the nature of the consignee. Cattle, sheep, goats, and pigs are exempt in any case, the supposition being that they are always destined for the slaughterhouse, where the slaughtering tax becomes due. But horses are exempt only if it is proven they are going direct to the slaughterhouse. Flour is exempt if going to a miller, and sugar, if it does not have to pay the *droit de consommation.*

In summary, it can readily be seen that the imports specifically exempted by law are few and of little importance, after subtracting those exemptions made only because the articles concerned are subject to a special tax at a later stage.

More extensive are the exemptions which have been allowed by the Customs Administration. These are:

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[22] *Cf. supra,* p. 255. Proof that the wheat or rye has been so used must be given (either to get a tax refund or to get release from a guaranty promise made at time of importation), in the form of a document signed by *l'autorité préfectorale. Cf.* Gardes and Morillot, *op. cit.*, p. 371.

[23] Law of March 19, 1928, art. 22. This was done to facilitate imports by the Bank of France for stabilization purposes. *Cf. J.-C.F.*, Div. T, Nos. 252 *bis*–252 *quater.*

[24] *Cf. supra,* p. 293.

(1) Personal and household goods brought in by travelers,[25] tools and agricultural machinery brought in by farm laborers, and *objets d'art* destined for national museums.[26]

(2) Milk and bread. These were not expressly exempted from the import tax by the law that excused them from the domestic turnover tax, but the Administration has let them in free, in what it believes is correspondence with the wishes — if not the laws — of the legislators.[27]

(3) Products of French fisheries.[28]

(4) Securities — *i.e.*, stocks and bonds.[29]

(5) Samples, without real value as merchandise.[30]

(6) Imports made under diplomats' privileges.[31]

(7) Goods brought in by travelers which they intend to re-export soon.[32]

(8) Goods and containers which are reimported (*e.g.*, containers originally exported from France and now returned empty; unsold French newspapers being returned from abroad).[33]

Payment of the Tax. — Here again the import tax differs from the domestic turnover tax. There is no *forfait*, or estimated-tax-base, régime and no monthly-payment system; the tax is due in cash,[34] at the moment the goods are taken out of customs, or released from any of the states described above[35] which hold the merchandise suspended, so to speak, in a state of non-importation. The rules of the Customs Administration are in some ways more harsh than those applying to the domestic tax; no mistakes are rectified after leaving the customs. No tax refunds are allowed, for instance, if the unlucky importer finds later that he counted his goods wrongly, or made some other similar error.[36]

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[25] This does not include automobiles. But automobiles can be brought into France for three months with only a small special tax. *Cf.* laws of July 31, 1920, art. 37, and March 31, 1925, art. 22; also *J.-C.F.*, Div. M, Nos. 138, 139.

[26] *J.-C.F.*, Div. T, Nos. 180–191.

[27] *Ibid.*, Nos. 228, 229.

[28] *Ibid.*, Nos. 226, 227.

[29] *Ibid.*, No. 255.

[30] *Ibid.*, No. 256.

[31] *Ibid.*, No. 257.

[32] *Ibid.*, Nos. 293–295.

[33] *Ibid.*, No. 193. Articles or material sent abroad temporarily to be repaired or worked up may, upon their return, be taxed only on the value added while abroad. Gardes and Morillot, *op. cit.*, p. 370.

[34] With certain exceptions. *Cf. J.-C.F.*, Div. T, Nos. 277–279.

[35] *Cf. supra*, p. 291.

Means of Control. — The import branch of the turnover-tax system, being entirely under the control of the Customs Administration,[37] has as means of control the ordinary rights long since established by that arm of the French fiscal service. It would be out of place to discuss them in detail here. It may be noted, however, that special control measures have had to be adopted to prevent abuses of the *soumission cautionnée* and *admission temporaire* régimes,[38] and to make sure that, in the cases of wheat and rye, horses, coal, fertilizers, and flour, exemptions claimed are justified.[39] The rather short-lived *surtaxe à l'importation*, described below,[40] also gave birth to elaborate control provisions, now happily things of the past.

Legal Procedure in Case of Dispute. — Again in contrast to the domestic tax, the import tax sends its troubles, not to the administrative courts, but to the civil courts. The supposed offender is given notice to appear before the *juge de paix* of the canton within twenty-four hours; he must contest the case there within that time, or accept the tax collector's view of the matter. Or he may bring complaint himself, to the judge. Appeal can be made by either party to a higher civil tribunal, and finally to the *cour de cassation*.

The Treasury has a privileged position as against any other creditors of the taxpayer. A period of two years is granted for instituting claims against the Administration; one year for those against the taxpayer — save in case of fraud, when the Administration has thirty years in which to institute suit.[41]

Matters need not go so far as a court action if the dispute concerns merely the valuation to be placed on the imported goods. The Customs can not levy the tax on a valuation not agreed to by the importer, and in case of disagreement the parties have recourse to appraisal by an arbitrator (*expertise légale*). Experts hired by the Minister of Commerce, and a representative each for the Customs and the importer decide the matter.[42]

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[36] *Cf. J.-C.F.*, Div. T, No. 375. For special rules concerning imports of petroleum, *cf. ibid.*, Nos. 264, 265.

[37] This also applies to all the various "special-rate" taxes (*e.g.*, coffee tax, tea tax, fertilizer tax), as concerns imports. *Ibid.*, No. 299.

[38] For details, *cf. ibid.*, Nos. 286–292; 283–285.

[39] *Ibid.*, Nos. 233–236; 246, 247; 250–252; 228 *bis*.

[40] *Cf. infra*, p. 301 *et seq.*

[41] *Cf. J.-C.F.*, Div. T, Nos. 332–385.

Fines. — False declaration of value, if discovered, may involve confiscation of the goods, plus a fine of 150 francs,[43] if the tax evaded is 12 francs or more; if less than 12 francs, the fine is levied and the goods may be kept as guarantee for payment, without, however, any confiscation.

Importation without declaration (smuggling) is punishable by confiscation, plus a fine equal to the value of the goods (but not less than 750 francs) and imprisonment, if the merchandise is taxable at 25 francs per 100 kilograms (or the equivalent) or more, or is subject to any of the special interior *taxes à la consommation*, or is prohibited from importation. Otherwise, the punishment is (*a*) confiscation plus a 300-franc fine (if import is by land) or (*b*) fine equal to value of goods plus 1,500 francs, with the merchandise kept as surety for payment (if import is by sea). If the goods are not taxable at all, a fine of 150 francs can be levied.

The severity of the penalties is mitigated by the fact that compromises (*transactions*) can be, and often are, made by the Administration.[44]

Distribution of Proceeds. — The regular rate on imports is 2 per cent — 1.9 per cent for the State, and 0.1 per cent for the départements and communes.[45]

Revenue from the special rates goes entirely to the State, save in the case of coal, in which the 2.5 per cent rate is divided into 2.35 for the State and 0.15 for the local bodies, and sugar, in which the 6 per cent rate is divided into 5.7 for the State and 0.3 for the local bodies.[46]

Developments since 1920. Sales in France by Foreign Traders. — Suppose a merchant residing outside of France buys and sells goods which are within France. Although acting as a true middleman, he would be subject to less burden than if he had his place of business within France. Suppose, for example, that X, from his office in Belgium, buys cotton in France from a French merchant A, and sells it to another French merchant B, also in France. The cotton never leaves France; and the turnover tax would be collected but once — on A's sale to X. The sale by X to B would not be taxable in practice,[47] for the French Tax Administration could not reach X, in Belgium. If X were in France, the tax would be collected twice. Obviously, it would be to the advantage of any such middleman in France to move his office across the border; he would find it just as easy to buy the cotton from A and have it delivered to B as before. To prevent this method of evasion, the legislators inserted in article 72 of the basic law a provision that whenever anyone not established in France purchases goods and orders his seller to deliver them to a third party in France, this seller (A, in the above example) must pay an additional tax of 1.1 or 10 per cent (later 2 or 12 per cent), over and above the regular turnover tax, on his sale to X. The goods are thus taxed twice, and reach the second buyer, B, just as heavily burdened as if X had been located in France. It appears that in practice there has been little occasion to levy this additional tax.[48]

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[42] For details, *cf. J.-C.F.*, Div. T, Nos. 95 *ter*–95 *quater*.

[43] *I.e.*, 100 frs. *principal* plus 50 per cent increase. Figures for the other fines are likewise given with the 50 per cent increase included. *Ibid.*, No. 331.

[44] *Ibid.*, Nos. 388, 389. For full details on penalties, *cf. ibid.*, Nos. 305–331.

[45] *Cf. supra*, p. 259.

[46] *Cf. supra*, p. 288.

Difficulty sometimes arose, however, through ingenuity on the part of X, who would carefully refrain from giving the seller A any definite order to deliver the goods to B. Instead, he would ask A to turn them over to an employee of his in France. The extra tax could not be demanded from A in these circumstances. The employee would then be ordered to deliver the goods to B; and the Administration could not collect a tax on the full value of the goods from the employee, who himself had no title to the merchandise. This situation was corrected by article 84, paragraph 4, of the law of July 13, 1925, which declares that those who operate in France as agents or employees of business men established abroad must pay the turnover tax on the full value of the goods which they handle for the account of their foreign employers.[49] This provision, applying to sales of goods which are already in France, goods which in reality may never have been brought in from abroad, is still in force, and must be distinguished from the extra tax levied on agents actually importing goods in their own names — a tax which lasted for almost two years, as described below.[50]

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[47] Nor in theory, perhaps. *Cf.* Allix and Lecerclé, *La Taxe sur le chiffre d'affaires*, pp. 209–212, 220; and *Documents Parlementaires*, 1922, *Sénat, Session Extraordinaire*, p. 39 (No. 624).

[48] *J.-C.F.*, Div. T, No. 499.

Developments since 1920. Protection of French Importing Merchants. — Another problem, not yet completely solved, has arisen from Parliament's desire not to burden (and, indeed, destroy) the *négociant-importateurs* established at important French ports, who import large quantities of goods as their own property and later resell them to French merchants, manufacturers and farmers. The *négociant* acts, not as an agent, but as a genuine purchaser of goods. French manufacturers, especially those with small businesses, have been accustomed to purchase from these *négociant-importateurs*, rather than import directly from abroad. It means less risk for them, more likelihood of getting the quality desired, and is, in general, more satisfactory for them.[51] But the imposition of an import tax would tend to restrict purchases from the *négociant*. If a manufacturer bought from such an importer, the goods would reach him burdened by two taxes — the import tax which the *négociant* would have to pay, and the domestic turnover tax on the resale by the *négociant* to the manufacturer. If, on the other hand, the manufacturer chose to buy abroad directly, the goods would reach him burdened by the import tax only.

To protect the *négociant-importateur*, could it not be decreed that anyone importing goods without recourse to the *négociant* should pay a double import tax? But this would not please the manufacturer, especially a large manufacturer getting all his raw materials abroad and accustomed to importing them directly himself. And if the manufacturer were one who exported his finished products, he would be seriously handicapped in his effort to capture foreign markets, by the burden imposed on his raw materials through the double-tax plan. With the general sentiment as to the balance of trade, the falling exchange and the necessity of encouraging exports, any such handicap would not be popular.

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[49] *Cf.* Allix and Lecerclé, *op. cit.*, pp. 219–221. Save in the case of certain raw materials, when sold in France for the first time after being imported. Such sales are exempt in any case; *cf. infra*, p. 302. The only tax that can be collected is one on the commission of the independent broker or commission agent, if such he is.

[50] *Cf. infra*, p. 304.

[51] *D.P.*, 1920, *Sénat, S.O.*, pp. 363, 364 (No. 339); Allix and Lecerclé, *op. cit.*, p. 222.

This conflict of interests led to a compromise, embodied in article 12 of the law of July 31, 1920. A surtax on imports was adopted. If the seller — referring to the last sale made before the goods were cleared through customs[52] — did not have his place of business in France and hence escaped the turnover tax on the sale, a double import tax was levied (to be collected, of course, from the one in whose name the goods went through customs). Thus a French farmer buying American farm machinery from an English exporter would find the double import tax levied upon the machinery; if he bought it from a French *négociant-importateur*, located in one of the French ports, only the regular import tax would apply, for the *négociant*, concluding the sale before the machinery passed through the customs, would be the seller referred to in the law, but, being established in France, would escape the extra import tax. The *négociant* would also pay the regular turnover tax on that sale. From the tax point of view, then, the farmer would gain no advantage by purchasing directly from abroad instead of through the *négociant-importateur*.

But to lighten the burden on French manufacturers who imported raw materials to be worked up within France, and who were not accustomed to purchase through the *négociant-importateurs*, a wide gap was left in the law. The double-tax provision did not apply to goods which were purchased in, and sent to France directly from, the country of origin. This was an extraordinarily indirect way of getting the results desired, for of course manufactured articles as well as raw materials could escape the double tax under this clause; if the French farmer in the example above purchased his machinery in the United States, where it was made, and if the machinery were sent directly to France, the surtax would not apply. But it saved the trouble of naming the raw materials, and most of those raw materials are shipped directly to France from the producing country. This is especially true of colonial products. The exemption was wide enough then;[53] its main fault was that it was too wide. Indeed, the Chamber voted, and the Senate almost passed, a clause exempting from the surtax *produits manufacturés* in the country of origin (instead of *produits facturés* — invoiced), which would of course have destroyed the whole purpose of the double tax. The mistake was discovered in time.[54]

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[52] Statement by Finance Minister, cited in *J.-C.F.*, Div. T, No. 394. This is the crucial point, of course: which "seller" did the law refer to when it said "when the French or foreign seller does not have his place of business, or a branch, in France"? It might easily be extended to cover the foreigner who sold the goods to the *négociant-importateur*. The latter would then be faced with the double import tax (just as if he were a manufacturer in the interior of France buying directly from abroad). That this interpretation was indeed employed seems likely: *cf.* example given in Gardes and Morillot, *op. cit.*, p. 375; also *D.P.*, 1921, *Ch.*, *S.O.*, p. 1146 (No. 2392).

This plan did not work out satisfactorily in practice. Besides the objection that the exemption from the surtax covered too wide a field, there was the incontestable ease with which it could be evaded fraudulently, through false invoices.[55] The régime dragged on, however, until by the formidable and complicated article 84 of the law of July 13, 1925, a reform was introduced, which, it was hoped, would satisfy everyone.[56]

The surtax was abolished. In addition, an importer (in France) of certain raw materials[57] is excused from the domestic tax on his sale within France, if he sells the materials in the same state in which they are imported. This is obviously intended for the *négociant-importateur*.[58] A French spinner, buying cotton through one of these *négociants*, finds that the cotton is subject to the import tax but free from the tax formerly levied on the sale to him by the *négociant*. He thus has no fiscal motive for buying the cotton himself directly from abroad, as in either case the raw material is taxed but once before it reaches him.

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[53] Although there was criticism from French business men accustomed to buying their raw materials, not directly from the country of origin but through London, largely for financial reasons. Chambre de Commerce, Paris, *Bulletin*, 1924, pp. 1664–1666. The wording of the exemption seems more reasonable if one assumes that the chief intent of Parliament was merely to prevent foreign middlemen located abroad from taking away the business French middlemen had with that type of French manufacturer, etc., who, even with the double import tax, would continue to purchase his foreign supplies through a middleman of some sort. *Cf. D.P.*, 1920, *Sénat*, *S.O.*, p. 364 (No. 339).

[54] *Cf.* Allix and Lecerclé, *op. cit.*, p. 225. It was only a "printer's error" said the Senate committee. *D.P.*, 1920, *Sénat*, *S.O.*, p. 855 (No. 452).

[55] *Cf.* Chambre de Commerce, Paris, *Bulletin*, 1925, pp. 66–93.

[56] The germ of this reform can be found as early as December, 1920, when François-Marsal proposed virtually the same régime as that finally adopted five years later. *Cf. D.P.*, 1920, *Ch.*, *S.E.*, pp. 400–404 (No. 1760).

[57] The decree naming these raw materials was drawn up on Aug. 14, 1925, and ratified by the law of Aug. 12, 1926, art. 1. For the detailed list, *cf. supra*, p. 257.

But as to imports other than raw materials, it would still pay him to buy directly from abroad, to avoid the tax on the sale to him by the *négociant-importateur*. Therefore the law sought to double tax everyone except the *négociant-importateur*, if goods other than the raw materials noted above were imported. There were three possible cases.

(*a*) The French user of the goods may buy them direct from a foreign house, but not until the goods are already in France, passed through customs by the agent or employee of the foreign house, which, however, has no regular office or place of business in France. With no special provision to the contrary, only the regular import tax would be due; the sale itself, to the French buyer, could not be taxed because the seller is located abroad. This was cared for by paragraph 4 of the law, which states that "for persons operating in France as agents or employees of persons not established in France, the turnover serving as base for the [turnover] tax is the amount of the sales." That is, the agent or employee (even if a mere clerk) has become subject to the turnover tax on the full value of the goods he sells in France for the account of his foreign employer or principal. As this is in addition to the import tax, the goods reach the French buyer taxed twice. This provision also serves another purpose.[59] It does not apply to certain raw materials noted above, which are exempt upon their first sale in France.

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[58] "Importer" refers to him who takes title to the goods before they have passed through the customs. He must prove this by showing his customs receipt. For complications that arose under the régime of *soumission cautionnée*, *cf.* Gardes and Morillot, *op. cit.*, pp. 378–380; Allix and Lecerclé, *op. cit.*, pp. 228, 229.

[59] Where a foreign trader buys and sells goods which are in France, have originated in France, and do not leave the country. *Cf. supra*, p. 298. This is called *importation fictive*. Whether the provision discussed above was levied primarily for this purpose, or the one noted above, seems doubtful. Allix and Lecerclé, and Gardes and Morillot, discuss it under *importation fictive; Juris-Classeur Fiscal* does not.

(*b*) The French user of the goods may buy them while they are still abroad, but have them imported in the name of a commission merchant or other independent agent. Only the import tax would be due (plus a tax on the independent agent's commission), were it not that paragraph 5 of article 84 of the law declared that "if the transactions carried through by middlemen or independent agents (*intermédiaires ou mandataires*) concern goods presented for importation and which they themselves pass through customs (*introduisent en France*), the tax will be levied on the amount of the purchase [agent acting for domestic purchaser] or the sale [agent acting for foreign seller] so made." Again, specific exception was made as concerns the raw materials noted above. This article is no longer in force.

(*c*) The French user of the goods may buy them while they are still abroad and pass them through customs in his own name or in the name of the foreign seller.[60] Only the import tax would be due, were it not that the law, paragraph 6 of article 84, levied a purchase tax, equal to the regular turnover tax,[61] to cover such a case; specifically, it applied whenever goods (again excepting the raw materials) were not imported in either of the two ways just noted above, provided the goods were destined to be "used" or "consumed" by the French purchaser.[62] This qualification was necessary to exempt the *négociant-importateur* from the purchase tax. The purchase tax is no longer in force.

Thus the *négociant-importateur* was fully protected. A French manufacturer getting raw materials from abroad might as well purchase them from the *négociant-importateur* as from the dealer abroad; in either case the goods would be taxed but once (by the regular turnover import tax). As to all other materials or goods, he would find them taxed twice if they were brought in under his own name, his seller's name, or in the name of an employee of the foreign seller, or of an independent agent, just as they were taxed twice when bought and imported by a *négociant-importateur* and resold by the latter to the manufacturer. The mere importation brought but one tax to the *négociant* (*i.e.*, one who imported to resell), and double tax to all others.

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[60] *Cf.* Gardes and Morillot, *op. cit.*, p. 382.

[61] The tax base did not include customs duties and the import tax. *Ibid.*, p. 382.

[62] "A son usage ou à sa propre consommation." This included purchases made for private use and purchases made by merchants or manufacturers when the goods were destined to be used up, or sold after transformation. *Cf.* administrative interpretation cited by Gardes and Morillot, *op. cit.*, p. 382.

Unfortunately for the *négociants*, these provisions have been abolished. The first step was taken in August, 1926. As has been noted, the purchase tax (levied only on goods other than the special list of raw materials) was due by the buyer in France who imported directly from abroad, unless he was buying the goods to resell, in which case he would be in effect a *négociant-importateur* and should of course be exempt from the purchase tax, as it was for his benefit that it was levied. Others than the *négociant-importateurs*, true, buy goods from abroad to resell, but usually only after transforming them or reshaping them in some manner, and court decisions strictly interpreted the "buying and reselling" clause as referring only to those goods resold in exactly the same condition in which they were imported. Such interpretation was narrow, viewed from the mere language of the law, but it obviously expressed the exact intention of Parliament. Otherwise a wire manufacturer importing copper, for instance, would be excused from the purchase tax and would have an incentive to buy directly from abroad instead of going through the *négociant-importateurs* at the French ports. But the complaints of French manufacturers who did not wish to be penalized for the sake of the *négociant-importateurs* were too strong; and the law of August 12, 1926, article 2, exempted from the purchase tax those who bought from abroad and resold their goods either in the same condition, or after transformation. This of course considerably restricted the scope of the purchase tax, though there still remained the delicate problem of distinguishing between goods sold after transformation, and goods actually used up in the process of manufacture, the latter being still subject to the purchase tax.[63] These considerations led to the complete repeal of the purchase tax by the law of March 31, 1927, article 20.

Meanwhile the extra tax levied on independent agents who brought goods (still speaking of the non-raw materials) through the customs in their own names had aroused lively protest especially from the less independent, less financially fortified type of agent (*voyageurs* and *représentants de commerce*),[64] who found it difficult to pay the tax on the full value of the goods they handled. Therefore the law of December 19, 1926, article 6, declared that when entry through the customs was made in the name of such an agent, the extra tax should be due, not from the agent, but from the purchaser, unless the goods were destined for resale. By this time, "resale," as has been noted, had been made to include resale of goods after transformation. So the practical effect of the law was to excuse from the extra tax almost all goods passed through customs in the names of *voyageurs* or *représentants*. This of course put at a relative disadvantage other intermediaries such as commission agents, brokers, etc., and the logical thing was to excuse them from the extra tax too. This was done by the law of March 31, 1927, article 20, and at the same time the purchase tax was abolished.

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[63] *Cf.* Allix and Lecerclé, *op. cit.*, p. 230.

Thus the elaborate attempt to preserve the vested interests of the *négociant-importateurs* has failed, as regards all goods other than the raw materials listed by decree. As to these latter, it has succeeded, for the exemption on resale of the raw materials in France by the importer, in the same state in which they were imported, still exists. The success of this measure appears to have been somewhat imperilled, however, by a legal subterfuge whereby a French manufacturer imports raw silk, sells it to a customer, but then keeps the silk and works it up into cloth for this customer. He renders two bills to his customer: (*a*) for raw silk sold, this sale being exempt by the provision just noted; (*b*) for work done on silk owned by his customer, the amount received for this work being taxable. Had he kept title to the silk until it was worked up into cloth, he would have been taxable on the total value of the cloth when selling it to his customer; but by divesting himself of ownership of the silk while it is still in its raw state, he benefits by the law enacted to protect the very *négociant-importateur* with whom the manufacturer in this case finds it profitable to dispense.[65] The ultimate effects of such practice, especially as to the shifting of risk-bearing, may be far-reaching.

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[64] *Cf. supra*, p. 207.

[65] *Cf. Journal des Contributions Indirectes*, Jan. 22, 1929, pp. 54, 55.

The Export Tax

As noted above,[66] the early years of the turnover tax saw special favor granted to exports. In general, no French merchant had to pay the turnover tax on his receipts from a sale, if he himself (or his representative) followed that sale by actual exportation of the goods.

There were two unimportant exceptions to this. For a few months in 1920, sales of luxury dresses, lace, etc. — in general, all *ouvrages de mode* — were subject to the luxury rate of the turnover tax, even though the sales were made for export.[67] A more lasting exception to the general rule was made as regards antiques, and works of art if the artist has been dead more than twenty years. Such objects are taxed upon sale, even though exported, and have not yet been relieved of this burden.[68] They are the only objects at present subject to the turnover tax when exported.

For nearly six years Parliament refrained from levying a general tax on exports; but in the turmoil of 1926 most principles of taxation were cast aside in the urgent need for revenue, and the exemption of exports was doomed, for a time at least.

The process took two stages. The law of April 4, 1926, article 54, established what was in many respects a special tax on exports, which, although a part of the turnover-tax system, differed in many ways from the tax on domestic sales — particularly in its lower, and more complicated, rate schedule, and in its long list of exemptions. This law proving to be of little importance in securing revenue, the law of August 3, 1926, article 12, modified by the law of August 12, 1926, abrogated the April régime and linked the export tax definitely to the domestic tax, giving it, in general, the same tests for taxability and for exemptions.

But even in speaking of the August law, one must treat the export tax as a separate branch of the turnover-tax system, for it introduced problems of its own. Furthermore, it appears doubtful whether sales for export could be taxed at all without specific provision in the law to that effect. The domestic tax is levied on sales made in France; and the test of place of sale is place of delivery to the purchaser.[69] If the purchaser took delivery of the goods abroad, it is likely the domestic tax would be held not applicable, even with no express exemption of exports.

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[66] *Cf. supra*, p. 221.

[67] Instituted by *décret* of June 26, 1920, in virtue of power given by art. 72 of basic law. Repealed by *décret* of Dec. 24, 1920.

[68] Law of Dec. 31, 1921, art. 30. For details, *cf. J.-C.F.*, Div. U, Nos. 61–69.

The export tax was so short-lived (April, 1926 – January, 1927) that no extended discussion of its legal provisions is called for here. But its various phases may be noted briefly.

Taxable Transactions. — The mere fact of exportation was not the occasion of the tax, in contrast to the import tax. But if there was a sale of the goods by the French merchant, either before or after exportation, such sale furnished the occasion for levying the tax.[70] Thus a French merchant might send goods to his agent abroad, and pay no tax; but as soon as the goods were sold abroad, the tax could be levied. The difficult task this set the Tax Administration can be easily imagined. How could it know whether or not the goods had been sold after reaching the foreign country, if the French merchant chose to doctor his records? It had no check on the foreign purchaser, as it has on the domestic purchaser.[71]

Fees, commissions, etc., received by intermediaries engaged in exporting likewise became subject to the tax under the new régime.

Tax Base. — At first, the tax base was the value of the goods at the factory or store of the French seller — *i.e.*, it did not include the costs of transportation to the frontier and beyond in any case. But the altered régime as instituted in August declared the tax base to be the same as that for the domestic tax. Thus if a French merchant sold goods "free to destination," *i.e.*, took upon himself the charges and risks of transportation, he paid the tax on the total amount he received from his purchaser, including that amount he charged to cover transportation expenses. The law of December 19, 1926, article 8, modified this to the extent that in any case the French seller could deduct from the tax base that part of his receipts covering transportation expenses outside of France.[72]

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[69] *Cf. supra*, p. 202, note 3.

[70] *J.-C.F.*, Div. U, Nos. 13–17.

[71] A merchant in France, it will be recalled, must preserve the records of his purchases, and when he buys from another merchant in France, the latter must record the former's name if the sale is for more than 500 frs. (always excepting the *forfait* régime). *Cf. supra*, pp. 230, 231.

Tax Rates. — The rates of the tax were not fixed by the April law. This was left to the executive power, in the person of the Minister of Commerce, who was to decide what rates should be employed, after advising with the *comité consultatif des arts et manufactures*. All that Parliament did was to fix a maximum rate of 1.3 per cent and a minimum rate of 0.2 per cent, declaring at the same time (in the text of the law) that the tax rates should vary as the goods were raw materials, semi-finished goods, finished goods, goods containing more or less material from abroad, luxury articles, etc.

The decree fixing the rates was issued May 4, 1926. By it, four rates were fixed: 0.2, 0.5, 1, and 1.3 per cent. The decree listed in detail the goods to which the first three rates above were applied, and all other exports (unless entirely exempt) were taxed at 1.3 per cent. In general, the lowest rate applied to raw materials, the next two to semi-finished goods; but this is true only in a broad way.[73]

The August law simplified the situation considerably by taxing all exports 1.3 per cent unless they were luxury articles. In the latter case, the rate was 12 per cent, unless the foreign buyer were a business man (*commerçant*, as distinguished from the "ultimate consumer"), in which case the rate was 3 per cent.[74] The law still left some rate-making power in the hands of the executive by providing that the Government could, by decree, reduce the rates of any luxury articles to 1.3 per cent if it should deem them unable to support the 3 or 12 per cent rates. This the Government did, for automobiles, motorcycles, etc., firearms, and jewelry and precious stones (in this case, only if the sale were to a business man).[75]

Fees, commissions, etc., received by intermediaries were expressly taxed at one per cent by the April law; the August law, it seems, did not tax them at all, if the letter of the text is the test, but the Administration assumed the right — probably on the basis that it was following out the legislators' unexpressed wishes — of taxing them at 1.3 per cent.[76]

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[72] *J.-C.F.*, Div. U, Nos. 176–178. *Cf.* Chambre de Commerce, Paris, *Bulletin*, 1924, pp. 1465–1466, where the importance of freight charges in relation to total sales price is stressed. Also *cf. ibid.*, 1926, p. 1552.

[73] The full list is reproduced in *J.-C.F.*, Div. U, Nos. 134–136.

[74] This 3 per cent rate was introduced by the law of Aug. 12, 1926, modifying art. 12 of the law of Aug. 3, 1926.

[75] *Décrets* of Aug. 3, and 24, 1926.

Exemptions. — At first (under the April law) the field of exemption from the new export tax was wide. Not only did the law name certain articles which would be exempt (the most important class being agricultural and horticultural products), but it gave the executive branch of the Government power to widen the field so as to include "all merchandise considered as not being able to bear them [the export tax rates]" in the same manner that it could set the rates for taxable goods. No time was lost in utilizing this power, for in the same decree (May 4, 1926) which fixed the rates, there was published an exceedingly lengthy list of exempt articles. In effect, the export tax as levied by the April law was of little consequence, due largely to the extensive powers given to the Minister of Commerce to nullify the Finance Minister's revenue-raising efforts.[77]

In contrast to the general practice under the turnover tax the exemptions did not extend to receipts of fees, commissions, etc., by intermediaries dealing in the exempt articles.[78]

This complicated system of exemptions peculiar to the export tax was swept away by the August law, which simply extended the turnover tax to exports and thereby impliedly exempted from the tax on exports the same transactions that were exempted from the tax on domestic sales. However, the Administration refused to admit that coal and fertilizers were exempt; it appeared to go contrary to law here, and the point would certainly have become important if the export tax had not been suspended shortly.[79]

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[76] *Cf. J.-C.F.*, Div. U, No. 184.

[77] *Cf. J.-C.F.*, Div. U, Nos. 143–147. The full list of exemptions is reproduced in *ibid.*, No. 142. The April law noted certain other exemptions not important enough for discussion here, though there may be mentioned the provision that exports to Algeria, French Colonies, and French protectorates or "mandates," were exempt.

[78] *Ibid.*, No. 141.

[79] *Cf. supra*, p. 283 *et. seq.; J.-C.F.*, Div. U, Nos. 160–170, 202–204 *bis*. As an exception to this doctrine, the Administration allowed exports of fresh meat to go

Payment of the Tax. — Throughout the life of the export tax, payment was made in the same manner as for the domestic tax — *i.e.*, by monthly statements and payments,[80] unless the taxpayer had such a low annual turnover for all his business that he could benefit by the *forfait*, or estimated-tax-base, régime. Export transactions could be taxed under the *forfait* system, just as domestic transactions are.[81]

Means of Control. — In general, they were the same as those used for checking up on domestic tax collections. A separate record of exports had to be kept by the business man, including, moreover, those exports exempt from the tax.[82]

The French exporter of luxury articles, if he wished to benefit by the provision allowing a rate of 3 per cent (instead of 12 per cent) on sales made to foreign business men (instead of to "ultimate consumers"), had to get a yearly statement from his foreign customer, viséd by a French consular agent attesting that the foreign purchaser was indeed buying the luxury articles to resell;[83] though in certain cases when the facts of the case were indisputable, such proof did not have to be furnished.

Transitional Measures. — The tax instituted by the April law did not apply to transactions where the agreement of sale at a definite price had been made before the promulgation of the law, provided that actual exportation of the goods was made within six months, *i.e.*, before October 4, 1926. The August régime did not apply to such transactions, if actual exportation occurred before

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free. They are exempt from the domestic tax (the *taxe d'abatage* having replaced the turnover tax for this branch of commerce). The exception here appeared to be better founded than the rule.

[80] *J.-C.F.*, Div. U, Nos. 127, 195.

[81] *J.-C.F.*, Div. Q, No. 144.

[82] *J.-C.F.*, Div. U, Nos. 125, 185–187. This was required partly, it appears, to enable the Government to check up sales abroad so that it might enforce the very interesting *arrêté* of Oct. 14, 1925, which required French merchants, when selling abroad, to "repatriate" the proceeds by bringing them into France within three months, in the form of francs — a measure designed, of course, to check the "flight from the franc." *Ibid.*, No. 194.

[83] *J.-C.F.*, Div. U, Nos. 188–191, citing *arrêté* of Aug. 24, 1926. This is analogous to the requirement demanded of domestic merchants selling luxury articles to other domestic merchants. *Cf. supra*, p. 269. Further requirements were made if the sale was accomplished through an intermediary. *J.-C.F.*, Div. U, No. 192.

November 1, 1926. In either case, the date of payment had nothing to do with the question.[84]

The rules of the domestic tax applied as to fines and penalties, administration, and legal procedure. The total yield from the export taxes went to the State; none to the départements or communes.

The export tax did not live a year. The law of August 12 gave the Government power to suspend the tax by decree, "if the condition of the [foreign] exchanges comes to demand it." As the franc headed up from its nose dive of July and climbed steadily toward the end of the year, it was feared that exports were being hindered enough without having the added burden of a tax; so by a decree of January 4, 1927, the Government suspended the application of the tax for all transactions in commodities actually exported after December 31, 1926, no matter when the agreement of sale had been made. The tax on antiques, etc.,[85] is still in force, however; the decree expressly exempted such articles from the general relief given.

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[84] *J.-C.F.*, Div. U, Nos. 139, 197, 205–219.

[85] *Cf. supra*, p. 307.

PART IV

ECONOMIC AND FISCAL ASPECTS OF THE TURNOVER TAX

CHAPTER XIV

ECONOMIC EFFECTS OF THE TURNOVER TAX

THE economic effects of the turnover tax form doubtless the most important consideration in regard to the levy. To present a really valuable analysis would require a separate treatise on that topic alone; and this the writer is not prepared to furnish. Instead, there is given below what may be considered a few observations and a few thoughts which rather obviously suggest themselves following such a study as has been presented in the preceding pages. For more careful and complete consideration regarding the effects of such a tax the reader is referred elsewhere.[1]

Certain changes in methods of doing business have been caused by the turnover tax, for the levy has favored, relatively, certain types of business enterprise. Some of the effects have been noted in current comments on the tax; others can only be deduced from the nature of the tax, the writer having no confirmation of his reckonings.

Buyers and Sellers Transformed into Commission Agents. — Following the imposition of the turnover tax in 1920, large numbers of dealers, both wholesale and retail, became instead commission merchants or brokers, solely because they could thus handle commodities and pay a tax only on gross commissions received rather than on the total value of the goods. This shift was especially noticeable in the coal, animal and meat, and grain and flour trades, and was partially responsible — in the case of flour, almost wholly so — for the introduction of replacement taxes.[2] The writer has seen no statement to the effect that since the introduction of the replacement tax on coal, for instance, commission merchants and brokers have reverted to their former status as buyers and sellers, but there seems no reason, save that of inertia, why they should not have done so.

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[1] *Cf.* E. R. A. Seligman, *The Shifting and Incidence of Taxation*, Fourth Edition, Revised, espec. p. 228 *et seq.*, and *Studies in Public Finance*, Chap. VI; National Industrial Conference Board, *General Sales or Turnover Taxation*, pp. 8–55.

[2] *Cf. supra*, pp. 135, 142, and 155.

The change has been more especially marked in the wholesale field. However, the retail trade has recently been affected also, as witness the case of the Société Standard, a wholesale coffee house which persuaded the retail chain of Hachette, selling miscellaneous articles largely in railway stations, to add coffee to its line on a depository or commission basis. The coffee thus became taxable at the retail stage only on 0.8 francs per kilo — the retailer's commission — instead of on 19.2 francs per kilo, the selling price. The Comité de l'Alimentation Parisienne calculated that this meant a loss to the Treasury of 4,976,200 francs, and in a letter to the Finance Minister aired its fear that other commodities might soon be sold in the same manner, thus striking a heavy blow at the ordinary retailer.[3]

Such shifts have far-reaching effects upon the business structure. They tend to place the risk of ownership and the burden of carrying charges upon the manufacturer. But not every manufacturer is equally able to assume these tasks; only the larger ones can readily arrange for the extension of credit and new capital which this necessitates. Many small manufacturers doubtless find it preferable to send their goods through large wholesalers even though the goods are thereby burdened with an additional application of the turnover tax. When such goods come in competition with those carried by a large producer who has assumed many of the wholesaler's and even retailer's functions, the small firm has proof that the turnover tax tends to give to those who have and to take away from those who have not.[4]

The shift is also important in so far as it cuts down the Treasury's receipts from the tax, and is one reason why the revenue from the levy cannot be expected to double with every doubling of the tax rate.[5]

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[3] *Journal des Contributions Indirectes*, July 17, 1925, p. 440.

[4] For an example of the alarm this prospect has given certain French observers, *cf.* N.-Gh. Popovici, *L'Impôt sur le chiffre d'affaires*, pp. 95–103.

[5] *Cf. supra*, pp. 64, 65.

Integrated Concerns. — An extension of the change in distribution of business functions noted above is exemplified by the vertically integrated concern which in its extreme form owns its own sources of raw materials, its manufacturing plants, and its wholesale and retail outlets. The advantage given to such firms over the small manufacturers, wholesalers, and retailers who handle goods upon which the turnover tax is imposed at each stage, was early recognized.[6] It was advanced as a reason for increasing the special sales tax on large retail stores, which had been levied in 1917 partly on the excuse that it would help protect the small tradesman against competition from the large department stores, which aim, however — according to Deputies Manceau, Constant and others — had been thwarted by the advantage given to the larger concerns by the turnover tax.[7] Here again large-scale business is given a comparative advantage by the turnover tax.

One way to counteract this tendency would be to tax deliveries to retail branches, made by the wholesaler or producer owning the retail outlets, as has been attempted in Germany and Czecho-Slovakia.[8] This would extend the turnover tax beyond its accustomed sphere of sales, making it effective even when the goods concerned did not change ownership. Such a proposal was made in 1926 by the Government, and seconded by the Chamber Finance Committee,[9] but the Chamber put it aside for further consideration, preferring instead to increase the special sales tax on large retail stores noted above.[10] Failure to provide more surely against the advantages gained by integrated concerns may be partly explained by the relative scarcity of such business forms in France. The question would doubtless be of greater importance in the United States.

Value Added by Manufacture. — Assume that of two groups of commodities selling in equal amounts (measured in money) to the final consumer before the turnover tax was imposed, one has a large percentage of its final total value representing what the United States Census reports call "value added by manufacture," while the gross receipts from the other group go almost entirely to pay for raw materials extracted from the earth. That is, a highly finished and a crude consumers' good are competing with one another for the consumer's pocketbook. The total turnover tax collected on the highly finished good from its first stage in the raw material form to its last stage in the consumer's hands will be less than that collected on the other, because in the stages prior to marketing the good in its finished form, the selling value of tangible commodities going to make up the highly finished article is less. Labor, instead of raw material, is purchased by the manufacturer, and the sale of labor by the laborer himself is not taxable. Therefore the imposition of the turnover tax gives a comparative advantage to the more highly finished good.

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[6] Chambre de Commerce, Paris, *Bulletin*, 1921, pp. 1123, 1124; *Débats*, 1921, *Chambre, Session Ordinaire*, p. 2460 (May 31), Deputy Manceau. *Cf.* also E. R. A. Seligman, *Studies in Public Finance*, pp. 134, 135.

[7] *Documents Parlementaires*, 1921, *Chambre, Session Ordinaire*, p. 824 (No. 2182).

[8] *Cf.* National Industrial Conference Board, *General Sales or Turnover Taxation*, p. 26.

[9] *D.P.*, 1926, *Ch.*, *S.O.*, p. 486 (No. 2791).

[10] *D.P.*, 1926, *Sénat*, *S.O.*, p. 610 (No. 210).

A suggestion has been advanced that this tendency be counteracted by levying the turnover tax only on the value added by a given firm to the commodities it handles.[11] This of course would swing the advantage the other way, and its obvious administrative difficulties (including the necessity for a very high rate) have alone been sufficient to keep the proposal from much consideration.

The advantage gained by the highly finished good may be partially nullified if the tax causes an increase in wages which the manufacturer would bear, though this in turn is counteracted if the wage increase is general, as presumably the raw material entering into the crude consumers' good will find a much heavier total additional wage charge than the raw material entering into the highly finished product.[12]

Labor Expense versus Capital Equipment. — Assume an article which, before the turnover tax, can be made about as cheaply by hand as by machinery. The cigar industry a few years ago in the

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[11] Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 4, 1927, p. 13.

[12] This would of course depend on how much the cost of the raw material represented wage payments, and how much rent. It is also important to consider whether or not, in any given instance, the number of transfers is greater in the case of the highly finished good.

United States might furnish an example. The turnover tax probably increases to some extent the cost of the "embodied labor" represented by the machinery, this "embodied labor" being bought and sold and hence taxed; while the direct labor used by the hand-working establishment does not increase in price unless wage increases are forced by the turnover tax, and even in that case a comparative advantage might be retained by the hand-working firm as the wage increases would also affect the cost of the makers of machinery. It seems likely therefore that the turnover tax gives a comparative advantage to those using direct labor rather than labor embodied in machinery, other factors not being considered.

This advantage exists in still another form. If the commodity produced is not strictly a necessity, the number of units possible of sale at an increased price may drop off more or less sharply, and with this drop in unit sales may come a drop in gross receipts. Therefore if both the hand-working and capital-equipment-using concerns attempt to add part or all of the tax to the price, they may find their sales totals dropping. But the hand-working firm can cut its expenses down by a ratio somewhat near to that by which its sales drop (it has, in other words, been working under a condition of increasing cost), while the capital-equipment-using firm can not cut down its expenses by as great a ratio, assuming interest on capital invested as an expense, for fixed-capital equipment is not as easily disposed of as day laborers.

But the advantage thus gained by the hand-working firm may, it must be admitted, be completely lost if its capital-equipment-using competitor is imbued with a fighting competitive spirit and endowed with a capitalization almost wholly common stock. For then the latter firm may refuse to increase prices, assuming the burden of the tax itself, at least temporarily. The conduct of any owner of a business is guided largely by the probable percentage return on his invested capital. An addition of 2 per cent to the expenses, without any increase in gross receipts, means far more to a firm with a high operating ratio and small capital investment (hand-working firm) than to one with a low operating ratio and large capital investment. The percentage decline of per cent earned on invested capital would be far greater for the former concern than for the latter. Therefore the capital-equipment-using firm might be able, by temporarily accepting a loss on its investment, to drive out of the field its hand-working competitor.

Form of Capitalization. — It was assumed above that the capital-equipment-using firm was capitalized largely with common stock. In this way the stockholders are in better fighting shape, so to speak, to carry the war to the finish. But if most of the investment in machinery is represented by bonds on which interest must be paid regularly, the stockholders will be far more careful about entering into destructive competition. True, by the same token they have more cause to worry over a drop in sales, and their action will consequently be guided by the relation between the added expense caused by assuming the tax and not increasing prices (with the possibility, of course, of increasing gross receipts at the expense of hand-working competitors) and the loss in net sales to follow from recouping the tax expense by adding it to prices.

If we consider two firms identical in capital equipment, sales and operating ratio, but dissimilar in capital-security structure, the situation resembles somewhat that of the capital-equipment-using firm versus the hand-working firm. The concern which has a heavy bonded interest has a high "operating ratio," to distort the common use of that term, and its stockholders are much less able to bear an additional expense (represented by the tax) without recouping it than are the stockholders of a concern with no bonds or preferred stock. The latter concern has an even stronger temporary advantage than it does against a hand-working firm. For its bonded competitor can not, like the hand-working firm, decrease its expenses to as great a degree (including here interest on bonds as an expense) as can the hand-working firm. The latter may in time so restrict its operations that — assuming it works under increasing-cost conditions — it at last cuts its production to the point where its marginal unit offers sufficient profit to absorb the tax, and so, though greatly cut in size, it may still persevere in business. But the heavily bonded capital-equipment firm has no such opportunity. Then does it follow that its non-bonded competitor easily can, and will, drive it into bankruptcy and out of business?

It may be driven into bankruptcy, but not necessarily out of business. Here a distinction must be made between the people and the plant.[13] The former cease to exist as owners, or else remain on greatly reduced terms; they will have absorbed a loss, either as bondholders or stockholders, and to that extent the turnover tax may be said to have been "shifted" to security holders, and the train of effects may have widened out to include all those who deal in bonds. But the capital equipment remains, as good as it ever was, and the non-bonded firm now finds itself with the old competitor under a new name and with a capital structure enabling it to give and take the fiercest of blows in any "cutthroat" competition anyone wishes to start, so that the tax may become shifted in part to the formerly favored producer's "rent" or "surplus." The final results are incalculable.

In general, then, although the turnover tax weighs more heavily on stockholders of a heavily bonded concern, the non-bonded concern can not always afford to take full advantage of the situation.

Rate of Turnover. — At first glance it might seem that the turnover tax would put at a comparative disadvantage those firms operating on a quick-turnover basis, since the tax is one on sales. But if of two firms one has a total-capital turnover rate say five times as great as that of the other, while its total sales, margin of profit (not including interest on capital investment, both fixed and circulating), and total net profits are the same as those of its rival, it is of course earning a profit percentage on its capital investment five times greater than the other, and the addition to expenses of an amount equal to a certain per cent of gross sales cuts this profit ratio by an equal percentage in each case. Thus the imposition of the turnover tax acts neither to the comparative advantage nor disadvantage of the quick-turnover firm. But in practice, if the turnover rates are different, the margins of profit are almost certain to be different — a furniture store has a greater mark-up percentage than a grocery store.

It is this profit margin that is the important factor — the ratio of the sum available for the owners of the business divided by the gross receipts. In so far as quick turnover is coupled with, and is the cause of, a low profit margin, then indeed the quick-turnover firm may find itself at a comparative disadvantage because of the turnover tax. This concept is most applicable in comparing concerns selling different articles, which articles compete with each other — that is, appeal to the same buying class — for the consumer's attention. But if the two firms are selling the same article at the same price, mere difference in turnover may not imply difference in profit margin, and the imposition of the tax may therefore give neither firm a relative advantage.

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[13] *Cf.* N. G. Pierson, *Principles of Economics* (English translation by A. A. Wotzel, London, Macmillan, 1902), Vol. II, pp. 430, 431.

Shifting and Incidence of the Turnover Tax. — The most important question of all concerning the turnover tax is, who finally pays it? Important as this question is, no answer can be given here. There may be considered, however, the French views on the subject and some comment may be made on the usual treatment of the subject in economic treatises. In any case, answering the question above would not by itself give the legislator all he would like to know. For if France had not levied the turnover tax she would have had to levy some other tax, or let inflation grow more rapidly than it did. In the former case the unknown individuals who have paid the turnover tax might have been almost equally harmed by an income tax, or, in the second case, they might have suffered as bondholders. Whether or not a given individual suffered by having a turnover tax levied could not be known until not only the effects of the turnover tax but also of various alternatives were known. This problem is certainly too vast to be developed here. Attempts to trace the results of the turnover tax alone is therefore all that will be considered in the following pages.

The French View. — The question as to who finally pays the turnover tax has in France usually been answered by saying that the ultimate consumers bear a burden at least equal to, and perhaps greater than, the tax. This attitude is the more understandable when one realizes the great extent to which the shifting of taxes in general is assumed in French fiscal writings.

The commercial and industrial profits tax is very generally assumed to be passed on to the consumer in the form of higher prices, in contrast to the American and English view which regards it as a levy that can not usually be shifted because of competition from the marginal, non-tax-paying business men.[14] In France even the capital levy (if spread over a period of years) has been looked upon as capable of being passed on to consumers.[15]

Many French commentators, more especially those not intimately connected with business firms, believe that the buyer raises his prices by more than the tax, the theory being that the business man sets his prices on the basis that his profits must equal a certain percentage of his expenses; and as the tax is counted among his expenses, the base on which the profit percentage is figured is swelled. Hence the logical conclusion, frankly stated, that the imposition of the tax increases the business man's profits.[16] Or the business man, making the tax an excuse for increasing prices, may increase them by more than the tax, just for good measure.[17]

This is the more extreme view. In any case, there are the increased banking costs which must be recouped,[18] and the added expense occasioned by the visits of the tax collector and by the numerous restrictions and formalities imposed upon the business man.[19]

Politicians generally look upon the turnover tax as one that is shifted on and on until it rests finally on the consumers.[20] This was the end desired by Parliament when it levied the tax in 1920;[21] decidedly it did not wish the levy to be thought of as a business tax, taking money from the pockets of the manufacturer and merchant. Conditions in the first half of 1920 were such as to render this theory easy of belief; the continuing inflation of prices gave the appearance of a strong "seller's market," with production unable to keep up with demand.[22] To this was coupled the universality of the tax as proof that capital could not shift to a non-taxed field.[23]

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[14] *Cf.* National Industrial Conference Board, *The Shifting and Effects of the Federal Corporation Income Tax* (New York, 1928), *passim; Report of the Committee on National Debt and Taxation* (London, H. M. Stationery Office, 1927), pp. 108–164.

[15] *Cf. J.C.I.*, March 1, 1926, p. 121, and Bertrand Nogaro, in "La Politique financière du parti radical," *Revue Politique et Parlementaire*, Vol. 125, p. 291 (Nov., 1925).

[16] *Cf. J.C.I.*, Dec. 1, 1924, p. 587; March 15, 1927, p. 148; also *D.P.*, 1920, *Ch.*, *S.O.*, p. 257 (No. 315), Deputies Aubriot, Levasseur, Rozier, and others; *Déb.*, 1925, *Ch.*, *S.O.*, p. 1471 (Feb. 28), Deputy Marcel-Héraud; and *supra*, p. 130.

[17] F. J. Combat, *La Taxe sur le chiffre d'affaires*, p. 16; *cf.* also *D.P.*, 1923, *Ch.*, *S.O.*, p. 651 (No. 5856), proposal by Deputy de Cassagnac and others for a replacement tax.

[18] *Cf. supra*, p. 129, where this point is noted in connection with the replacement taxes.

[19] *D.P.*, 1920, *Ch.*, *S.O.*, p. 213 (No. 589).

[20] *Cf. ibid.*, and *D.P.*, 1923, *Ch.*, *S.O.*, p. 1061 (No. 5913).

[21] *Cf. D.P.*, 1922, *Sénat*, *S.E.*, p. 37 (No. 624).

Belief that the tax was wholly shifted waned somewhat in 1921 and 1922 as the economic crisis of those years brought business men losses for which they were ready to blame, in part, the turnover tax. But with the return of better times, the belief in shifting seems also to have returned.[24]

Even granted that the tax is shifted on to consumers, the process may not stop there. Thus Deputy Barthe, arguing for a tax on capital in 1920, warned business men that the turnover tax, increasing prices, would of necessity bring a corresponding increase in wages; otherwise the workers would have to cut down their consumption and this would lessen their productiveness.[25]

The conclusions have not been all in one direction, however. The protests voiced by business groups from time to time over the turnover tax indicate that something more than the mere trouble of acting as tax collectors was bothering them;[26] and when the tax was under discussion in 1920, Deputy Bokanowski recognized in his report that elasticity of demand might upset the assumption of complete shifting.[27] Time and again the tone of reports and speeches indicates a feeling, not clearly expressed, that the tax is a financial burden on the business man.[28] Two chief occasions upon which the tax is not passed on have been described, as follows:

[22] [23] *Cf. D.P.*, 1920, *Ch.*, *S.O.*, p. 242 (No. 589).

[24] It is the writer's belief that in both a strong seller's market and buyer's market the tax is apt to remain on the business man. When prices are changing radically, 10 per cent or more at a time, in periods of serious inflation or deflation, the sale price actually arrived at may be largely a matter of chance, and might well be exactly the same if there were no tax. A stable price level, on the contrary, promotes more careful consideration of the tax as an item of expense that must be covered.

[25] *Ibid.*, p. 137 (No. 197).

[26] *Cf. supra*, pp. 27, 28.

[27] *D.P.*, 1920, *Ch.*, *S.O.*, p. 242 (No. 589). *Cf.* also *Avis* by Chamber Committee on Commerce and Industry, *D.P.*, 1923, *S.O.*, p. 342 (No. 5567).

[28] Thus complaint is made that in many branches of industry and commerce the percentage of profit on turnover (before the tax) is no greater than the tax rate itself. *D.P.*, 1921, *Ch.*, *S.O.*, p. 2456 (No. 3160).

Through negligence or unconcern on the part of the business man, when the rate is only, say, 1.3 per cent.[29]

In times of business depression, when demand falls off sharply and prices sink.[30]

Orthodox Treatment of the Question. — Authorities who have studied the problem most closely have concentrated on the degree of elasticity of demand, and on the status under which production is carried on, *i.e.*, whether the commodity in question is produced under increasing, decreasing, or constant cost, and in the first two cases how sharply the costs increase or decrease as output rises.[31] Thus, if the article be a necessity such as salt, the consumption of which is little affected by price, the producers can add practically the total amount of the tax plus whatever incidental expenses the tax brings to them, and, selling the same unit amount as before, maintain the same total profits as before. In such a case conditions of production are of little consequence. The same might be said of certain very expensive luxuries available only to a select clientele who do not care, if indeed they know, how much they spend upon them. But if the article be one the consumption of which is powerfully influenced by price — automobiles, for example — then the sellers find that they can not dispose of their former marginal units at the old price plus tax, and must restrict their production until the more powerful marginal purchasers are reached and equilibrium is once more established at a somewhat higher price per unit, but with smaller gross sales (ex-tax) than before. If operating under decreasing returns, the industries making the commodity would not have to advance the price per unit by quite as much as the tax per unit, owing to lower operating costs on the new marginal units; if under constant returns, the increase per unit would be equal to the tax; if under increasing returns, the increase would be more than the tax, to compensate for the added average expense per unit of production on a smaller producing schedule.

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[29] Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapport*, March 24, 1925.

[30] *Cf. D.P.*, 1922, *Ch.*, *S.O.*, p. 608 (No. 4260), Deputies Chautemps and Israel; also *Déb.*, 1921, *Ch.*, *S.O.*, p. 2503 (June 2), Deputy Puech, Chairman of Committee on Commerce; *D.P.*, 1922, *Sénat*, *S.E.*, p. 92 (No. 668), Senator Serre, Chairman of Committee on Commerce; and Société pour la Défense du Commerce et de l'Industrie, Marseille, *Rapports*, March 7, and Nov. 14, 1922. Hence the ingenuous suggestion that the tax, by law, be billed separately to the buyer, as an addition to the sale price agreed upon. This simple-minded proposal has been advanced in relation to the replacement taxes. *Cf. supra*, p. 140.

[31] *Cf.* E. R. A. Seligman, *The Shifting and Incidence of Taxation*, p. 228 *et seq.*

This reasoning works out most neatly in reference to a production tax, specific (so much per unit), on a single commodity.

The common attack against such an approach to the problem is to deny that business firms are run along such precise principles of gain seeking, or to maintain that consumers' schedules of demand are myths. Yet for the changes in large aggregates of production, the method above described offers as good an approach as any yet devised. The chief criticism against it is probably that it does not go far enough in its implications as to capital structure, profit margins, turnover, and the nature of various expenses. While suitable for the long-run tendencies, it does not — and is not intended to — indicate the possibilities of small changes in short periods of time. The influence of certain depreciation charges and other constant costs on the shifting of the turnover tax serves in a measure to illustrate this.

Industries with heavy capital investment in machinery have certain depreciation charges which run on steadily almost regardless of operations. Salaries of certain officials are a similar item of expense. The presence of these expenses puts almost every manufacturing plant on a basis of "decreasing cost," or "increasing returns," not in the same manner as indicated by the phrases used by Taussig, for instance,[32] but in the sense that the cost of the marginal unit may be considered to increase if production is cut down, provided a certain system of accounting is used, whereas it may not, if some other method of distributing overhead expense is used. Will the depreciation on idle machines be charged to an "idle time" account, or will it be spread over the remaining units of goods produced? If, because a certain class of machines are being run to the limit, a cheap article is shifted to an expensive idle machine, what is the cost of this "marginal" article? Obviously, here is a set of cost problems, which, if the business man faces at all, he may resolve in a manner different from that of his competitors. Such questions would not be so troublesome were it a case of large changes in production and prices one way or another, necessitating the investment of new capital or the liquidation of old. But a turnover tax of 2 per cent seems unlikely in many cases to cause such large shifts. Rather it is indeed a question of the marginal unit of production, and the individual business man's action in a given set of circumstances seems almost unpredictable, both because of different methods of costing (if any at all) employed, and because of the reaction to the results of these costings. Many business men run at a loss for years on end because they do not know they are running at a loss. Eventually, of course, they are forced out, but in the meanwhile important changes in the price structure and competitors' conditions may have been caused by their persistence, and in certain instances the tax may result in permanent capital loss to owners and creditors. All this is not to deny that any headway can be made upon the problem; it merely indicates why the task is not undertaken here.

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[32] *Principles of Economics*, Third Edition, Revised, Chap. 14.

CHAPTER XV

THE YIELD OF THE TAX

Estimates. — Much of the early dissatisfaction with the turnover tax arose from the great disappointment in its actual yield. Throughout 1920–1924 the Chamber usually made exceedingly optimistic estimates, the Senate took a more gloomy view, and whoever happened to be Finance Minister took a position somewhere in between. Any tax yield was difficult to estimate in those days of inflation, but the turnover tax seemed particularly apt to create illusions as to what it could do. Lately the Government has been far more cautious, with the result that actual yield has steadily exceeded estimates.

Table 18 (page 331) shows the varying estimates, compared with the actual yield, for the years 1920–1923.

No separate budget was made for 1924; the 1923 budget, including the estimates therein, was simply duplicated for 1924.

For 1925 and 1926 the many changes either enacted or proposed at short intervals make a simple tabular comparison of total estimates meaningless.

Table 19 (page 332) is inserted merely to illustrate the variety of estimates that had to be made while changes affecting the 1925 fiscal year were under consideration. Most of the estimates made by the Chamber were never tested, as these changes were abandoned upon the insistence of the Senate. Clémentel's estimates were on the whole conservative.

In 1926 for the first time there was strict adherence to the penultimate-year rule (tax yield for current year assumed to equal tax yield of penultimate year) in estimating turnover-tax revenue.[1] The 1924 yield was taken, and to it added estimates of effects of changes in the law made since then, as follows (in millions of francs):[2]

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[1] The 1930 budget *projet* has abandoned this procedure, returning to the system of estimate without fixed rule, as is done with the income taxes.

[2] 1926 budget *projet*, pp. 152, 153.

Application for the whole year of the 20 per cent increase in rates by the law of March 22, 1924	+179
Taxation of real estate dealers	+ 3
Purchase tax on imports, and other changes in import tax structure	+ 60[3]
Taxation of coöperatives	+ 60
Taxation of automobiles used by builders	+ 10
Increased yield to be expected from giving Indirect-Tax Administration control over most of the tax	+400
Coal tax	+136
Slaughtering tax	+400
Exemption of first sale in France of certain imported raw materials	− 60
Exemption of coal from turnover tax	−147
Exemption of meat and animals from turnover tax	−160
Net gain	+881

The slaughtering tax estimate was much too high, for even with the increase in rates voted in 1926 the yield came only to 312 millions, in contrast to 400 millions in the *projet* and 467.5 millions in the budget as finally passed.[4] This error was balanced to some extent by the underestimate for the coal tax for which the true yield showed an increase of 62 millions over the budget estimate (partly because of higher rates passed in April) and even an increase of over 24 millions over the estimate in the budget law.[5] Likewise the estimates of loss from the removal of the turnover tax, while perhaps reasonable enough for coal, were almost certainly too low for animals and meat, the figure of 160 millions being exactly the same as that submitted by Clémentel in the fall of 1924, whereas one would expect it to be higher, as in 1924 the price level and tax rates were both lower than in 1926.

The 1927 budget, like that of 1926, adhered strictly to the penultimate-year rule. Taking the 1925 yield it made the following corrections (in thousands of francs):[6]

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[3] This was printed and adopted in the 1926 budget as 10 millions, but the 1927 *projet* revealed this to be an error; the sum should have been 110 millions, minus about 50 millions lost through abolition of import surtax. *Cf.* 1927 *projet*, pp. 130, 131.

[4] *Cf. infra*, p. 341.

[5] *Cf. infra*, p. 341.

[6] 1927 budget *projet*, pp. 130, 131.

Measures in force for only 4½ months of 1925:[7]	
Taxation of real estate dealers	+ 1,875
Purchase tax on imports, and other changes in import tax structure	+ 68,750
Taxation of automobiles used by builders	+ 6,250
Abolition of import surtax	− 31,250
Exemption of first sale in France of certain imported raw materials	− 37,500
Measures in force for only 2 months of 1925:[8]	
Coal tax	+ 121,358
Slaughtering tax	+ 267,011
Exemption of coal from turnover tax	− 122,500
Exemption of meat and animals from turnover tax	− 133,333
Measures not in force at all during 1925:	
Increase in coal tax rates	+ 50,000
Increase in slaughtering tax rates	+ 90,000
Taxation of coöperatives	+ 60,000
Higher rates on commissions, etc.	+ 57,000
Unification of the domestic tax rate at 2 per cent	+2,180,000[9]
Export tax	+ 460,000
Net gain	+3,037,661

Added to the yield of 4,496,231,000 francs for 1925, for the turnover tax proper (including the import tax), plus 14,642,000 francs and 32,989,000 francs from the two months' collections on the coal and slaughtering taxes, respectively, in 1925, this gave a grand total of 7,581,523,000 francs to be expected from the turnover-tax system in 1927. The actual receipts exceeded this by slightly over a billion francs, even though the export tax and the remnants of the purchase tax (on imports) were abolished during 1927.

Tables of Collections. — In the tables which follow (Tables 20–23), the writer, so far as is possible with the figures available, has

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[7] Actually in force one month more, but as in all cases save imports the tax payment is made the month following the business transaction, for yield purposes the figure of 4½ is approximately correct.

[8] Actually in force one month more, but as in all cases save imports the tax payment is made the month following the business transaction, for yield purposes the figure of 2 is approximately correct.

[9] This was an increase of 600 millions, on a yearly basis, over the amount to be expected from the heterogeneous rate structure of the law of April 4, 1926.

TABLE 18

ESTIMATES OF YIELD TO COME FROM TURNOVER TAX, 1920–1923

(In millions of francs)

	FINANCE MINISTER	CHAMBER FINANCE COMMITTEE	SENATE FINANCE COMMITTEE	AS PASSED IN BUDGET LAW	ACTUAL YIELD
For six months, 1920	2,250[a]	2,500[b]	3,150[c] 1,500[d]	2,084	940
For 1921 ...	4,988[e,f]	4,988[f]	2,700[f]	2,900	1,897
For 1922 ...	3,045[g,h]	3,045[h]	2,200[h]	3,045	2,280
For 1923 ...	2,500[i,j]	2,500[i]	2,850[j]	2,850	3,016[k]

[a] Klotz, at a one per cent rate; in *D.P.*, 1920, *Ch.*, *S.O.*, p. 3 (No. 166). The payments taxes indicated 32 billions of francs in retail sales; Klotz thought the actual figure was near 75 billions. He multiplied this by 5 to get total sales, applied the one per cent rate, and added 10 per cent of 10 billions as revenue from the luxury tax.

[b] *D.P.*, 1920, *Ch.*, *S.O.*, p. 214 (No. 589).

[c] At a 1.5 per cent rate. *D.P.*, 1920, *Sénat*, *S.O.*, p. 67 (No. 201).

[d] At a one per cent rate; also taking into account Klotz's error in multiplying by 5 (wholesale, etc., sales are on a lower price base than retail sales). *D.P.*, 1920, *Sénat*, *S.O.*, pp. 222, 224 (No. 250). *Cf.* also the Socialists' criticism of excessive estimates, *D.P.*, 1920, *Ch.*, *S.O.*, p. 439 (No. 535).

[e] François-Marsal.

[f] *D.P.*, 1921, *Ch.*, *S.O.*, p. 1269 (No. 2518). By this time, it was known that the tax was very disappointing in its actual yield.

[g] Doumer. Includes 145 millions from Alsace and Lorraine, not reported in the budget in 1920 and 1921. Doumer also expected an additional 2,527 millions from doubling the rate on non-luxury sales, and 41 millions from raising the second-class hotels luxury tax from 3 to 5 per cent. *Cf.* budget *projet* for 1922.

[h] *D.P.*, 1921, *Sénat*, *S.E.*, p. 18 (No. 196).

[i] De Lasteyrie. This was on the assumption that an increase of almost 30 per cent over the 1921 receipts would be shown, because of better business conditions. *Cf.* budget *projet* for 1923.

[j] *D.P.*, 1923, *Sénat*, *S.O.*, pp. 342, 420 (No. 302). The Senate's estimate was influenced by the good showing made during the early months of 1923.

[k] Despite exemptions granted to artisans and others in mid year 1923.

broken down the total yield of the turnover tax into its component parts — domestic tax, import tax, luxury taxes, replacement taxes, export tax — in presenting the data for monthly collections.[10]

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[10] In Allix and Lecerclé, *La Taxe sur le chiffre d'affaires*, pp. 310–312, are given monthly collections subdivided by Administrations. If these are checked against

TABLE 19

ESTIMATED EFFECT OF PROPOSED CHANGES IN TURNOVER-TAX SYSTEM AFFECTING 1925 FISCAL YEAR INCREASE OR DECREASE OVER 1923 YIELD

(In thousands of francs)

	Finance Minister, Clémentel [a]	Chamber Finance Committee [b]
Double décime	+ 600,000	....
Improvement in business conditions over 1923	+ 660,173	....
Extension of turnover tax to exports, except the 12 per cent rate	+ 400,000	....
Same, in modified form	....	+ 100,000 [c]
Taxing autos put in circulation by transport companies building for themselves, plus better control	+ 10,000	....
Exemption of grain and flour destined for bread	− 95,000	− 260,000
Exemption of fresh, smoked or frozen meats	− 160,000	
Exemption of milk and eggs	− 40,000	
Exemption of coal	....	− 120,000
Exemption of sugar	....	− 96,000
Exemption of colonial products	....	− 111,000
Exemption of fertilizers	....	− 30,000
Exemption of retailers, after allowing for losses above	....	− 528,000
Replacement taxes:		
Milling tax: 1 fr. 30 per quintal	....	+ 84,000
Slaughtering tax: horse meat, 10 frs. per kilo; beef, 11 frs. per kilo; veal, mutton, pork, 22 frs. per kilo	....	+ 378,000
Coal tax: industrial coal and coke, 2 frs. 15 per *tonne;* domestic coal and coke, 5 frs. per *tonne;* anthracite, 10 frs. per *tonne*	....	+ 243,000
Coffee: 73 frs. per quintal	....	+ 124,000
Tea: 62 frs. per quintal	....	+ 1,000
Cacao: 61 frs. per quintal	....	+ 28,000
Sugar: 10 frs. per quintal	....	+ 75,000
Rice: 6 frs. per quintal	....	+ 18,000
Stricter collection of sales by foreign houses		+ 10,000 [c]
Subjecting coöperatives to tax [Senate Committee]		+ 29,000 [d]
Net balance	1,375,173	....
Tax collected in 1923	3,027,731	....
Estimate for 1925	4,402,904	....

[a] 1925 budget *projet*, pp. 288, 289.
[b] *D.P.*, 1924, *Ch.*, *S.O.*, p. 2064 *et seq.* (No. 537).
[c] *Cf.* Clémentel's *projet*, *D.P.*, 1925, *Sénat*, p. 206 (No. 106).
[d] *Cf.* *D.P.*, 1925, *Ch.*, *S.O.*, p. 1371 (No. 1903).

The first table runs from 1920 through 1925, the second shows data for 1926 and 1927, the third for 1928 and the fourth for the first six months of 1929.

The figures are for that part of the tax going to the State only. Footnotes give the additional shares going to the départements and communes, where such data are available.

The data in Table 20 especially, are fragmentary in many instances. Furthermore, the totals do not give a true picture, as war victims have been allowed to set off turnover tax due against damage claims held by them against the State.[11] The writer has no information as to how large these amounts — which presumably are not included in the collection figures — may be.

In analyzing any tables in this book, one must recall that collections in Alsace and Lorraine do not appear in the figures before 1922. The writer has been unable to find collection figures for that territory for 1920 and 1921, although the turnover tax applied there.

For the years 1926 and 1927 the data gathered from the monthly tax collection tables in the *Bulletin de Statistique* may be compared with those found in the annual reports of the Indirect-Tax Administration, also published in the *Bulletin*. While in both years the grand total figures are in fairly close agreement, the subtotals for (*a*) domestic tax, excluding luxury taxes and certain replacement taxes, and (*b*) luxury taxes, are in significant disagreement, indicating that the monthly tax reports do not include, under the heading *Taxe de luxe* (*ventes entre non-commerçants*) *et taxe de 10 p. 100 sur le chiffre d'affaires*, all the luxury collections. They obviously do include therein more than the 12 per cent tax — the heading *10 p. 100* being clearly erroneous — and so the writer assumed they

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the tables in this book, the following errors must be noted: Sept., 1922, *Total*, read 186,936,000 instead of 186,736,000; May, 1923, *Douanes*, read 27,797,000 instead of 29,797,000; 1924, *Total*, *Douanes*, read 469,462,000 instead of 496,462,000; July, 1926, *Contributions Indirectes*, read 586,856,000 instead of 526,856,000; July, 1926, *Total*, read 690,863,000 instead of 630,863,000. In some cases these errors originated in certain sections of the source, the *Bulletin de Statistique*.

[11] *Cf.* Maguéro, Tassain, and Molas, *Supplément à la 2^{me} édition du traité alphabétique des droits d'enregistrement, de timbre et d'hypothèques*, pp. 241–243.

included all luxury collections.[12] This assumption is not borne out in its entirety by the comparison with the Indirect-Tax Administration's figures.

During and after October, 1928, the collection figures are not strictly net as regards the sugar tax, as no data are given for rebates allowed manufacturers of candy and other articles containing sugar on which the replacement tax has been paid.[13]

A summary table (Table 24, p. 346) is presented, showing yearly data gathered from Tables 20–23, with percentage computations. Data from those tables which are especially incomplete or apt to mislead are not carried over into Table 24. Even so, it is necessary to take the data in this table with caution; an examination of the preceding tables will reveal why this must be so. The yearly grand totals do not, in most cases, equal the sum of the items given above them, because of both incompleteness and double counting. In some instances the items are slightly too large or too small, as indicated by plus or minus signs. As with all other tables in this book, the data for 1920 and 1921 do not include Alsace and Lorraine. Also no data are available for: (*a*) turnover tax due set off against war damage claims,[14] (*b*) refunds to candy manufacturers and others because of the sugar replacement tax.[15]

Table 25 (p. 350) shows the proportion borne by the turnover tax to total tax revenue. It reveals the important part played by the turnover tax in the financial rehabilitation of France, and shows also that while the national Government has been relying more and more upon the turnover tax, the communes and départements received no larger a proportion of their total tax revenue from this source in 1926 than they did in 1921. The turnover tax is a somewhat more important item in the budgets of the communes than in those of the départements.

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[12] It was indicated at the Ministry of Finance that this was the proper procedure to be followed. For the use made of the figures under this heading, *cf.* footnote *w*, Table 20.

[13] *Cf. supra*, p. 286.

[14] *Cf. supra*, p. 333.

[15] *Cf. supra*, p. 286.

TABLE 20

TURNOVER–TAX REVENUE, 1920–1925 [a]

By Months, and Subdivided by Nature of Taxes (In francs)

Col. 1	*Col. 2*	*Col. 3*	*Col. 4*	*Col. 5*	*Col. 6*
Year and Month	Domestic Turnover Tax, Excluding Luxury Taxes and Import Tax	Luxury Tax on Retail Sales	All Luxury-Rate Taxes,[w] (Including Col. 3)	Import Tax (Collected by Customs)	Total Tax Going to State [x]
1920	*Not Available*	*Not Available*	*Not Available*	3,687,000	3,687,000
August				63,500,000	292,791,500
September				45,124,000	234,434,000
October				23,960,000	205,492,000
November				34,717,000	203,175,000
December					
Total, 1920	197,521,711+[b]	45,393,200?[c]		170,988,000	939,579,500+[dd]
	Registration Administration only [e]	*Registration Administration only* [f]			
1921			*Not Available*		
January	*80,972,805*	*19,716,152*		26,040,000	183,683,000
February	*68,432,431*	*13,825,037*		22,303,000	151,571,000
March	*69,969,955*	*11,980,683*		20,428,000	147,628,000
April	*72,468,996*	*13,265,269*		18,739,000	157,933,000
May	*68,204,926*	*13,987,553*		14,729,000	146,632,000
June	*66,283,226*	*13,322,698*		15,504,000	146,599,000
July	*64,671,857*	*14,165,861*		13,971,000	146,393,000
August	*61,073,358*	*12,375,144*		18,510,000	146,615,000
September	*68,695,830*	*12,008,209*		19,033,000	157,389,000
October	*72,548,282*	*11,280,882*		21,407,000	167,882,000
November	*78,657,228*	*14,482,624*		20,162,000	171,894,000
December	*79,645,757*	*15,103,553*		24,457,000	173,238,000
Total, 1921	1,391,264,045[g]	266,668,865–[h]		235,283,000	1,897,457,000[y]
	Registration Administration only [e]	*Registration Administration only* [f]			
1922[d]			*Not Available*		
January	*84,987,001*	*17,358,037*		19,495,000	191,935,000
February	*74,812,547*	*12,124,715*		20,077,000	164,639,000
March	*80,418,296*	*12,497,153*		21,139,000	169,417,000
April	*84,272,301*	*14,005,232*		18,771,000	182,925,000
May	*81,664,347*	*14,218,318*		21,000,000	180,074,000
June	*89,152,388*	*15,799,281*		22,154,000	189,286,000
July	*85,732,067*	*15,463,459*		21,654,000	196,812,000
August	*82,432,478*	*14,731,214*		22,176,000	187,697,000
September	*84,661,421*	*14,197,084*		20,916,000	186,936,000
October	*92,061,907*	*15,406,444*		23,257,000	208,298,000
November	*100,432,324*	*16,700,714*		24,217,000	209,705,000
December	*99,005,341*	*17,123,571*		26,503,000	212,542,000
Total, 1922, 12-months collections	1,711,905,659[i]	280,775,710–[j]		261,359,000	2,280,266,000[z]
Add: *Période complémentaire*, Jan. 1–April 30, 1923[dd]					14,450,200
Total, 1922 *Exercice*					2,294,716,200
	Registration Administration only [e]	*Registration Administration only* [f]			
1923			*Not Available*		
January	*101,920,519*	*17,633,762*		24,903,000	230,573,000
February	*91,758,317*	*12,480,746*		24,205,000	202,004,000
March	*104,133,045*	*12,077,174*		27,979,000	217,678,000
April	*112,960,024*	*14,354,710*		27,771,000	248,529,000
May	*109,595,606*	*13,420,219*		27,797,000	238,982,000
June	*108,950,786*	*14,503,341*		29,872,000	241,486,000
July	*112,997,236*	*15,209,228*		28,269,000	258,587,000
August	*115,362,061*	*14,253,403*		28,848,000	257,266,000
September	*120,621,294*	*14,369,261*		29,618,000	259,182,000
October	*133,309,965*	*15,618,523*		30,638,000	293,693,000
November	*141,289,717*	*17,975,123*		31,461,000	289,464,000
December	*133,287,507*	*16,926,648*		34,548,000	278,357,000
Total, 1923, 12-months collections	2,211,982,637[l]	395,701,182–[m]		345,909,000	3,015,801,000[ee]
Add: *Période complémentaire*, Jan. 1–April 30, 1924[dd]					11,930,000
Total, 1923 *Exercice*					3,027,731,000

TABLE 20 — *Continued*

Col. 1	*Col. 2*	*Col. 3*	*Col. 4*	*Col. 5*	*Col. 6*
Year and Month	Domestic Turnover Tax, Excluding Luxury Taxes and Import Tax	Luxury Tax on Retail Sales	All Luxury-Rate Taxes,[w] (Including Col. 3)	Import Tax (Collected by Customs)	Total Tax Going to State[a]
	Registration Administration only[e]	*Registration Administration only*[f]			
1924			*Not Available*		
January	*140,784,826*	*20,447,457*		31,300,000	303,413,000
February	*137,421,536*	*16,026,906*		33,807,000	289,000,000
March	*149,036,126*	*16,305,791*		37,476,000	302,634,000
April	*161,835,595*	*19,976,538*		38,374,000	345,871,000
May	256,402,000[m]	*20,541,206*	50,420,000	36,595,000	343,417,000
June	234,222,000	*17,111,772*	45,429,000	41,424,000	321,075,000
July	287,661,000	*19,106,202*	51,907,000	40,762,000	380,330,000
August	244,572,000	*16,518,287*	50,072,000	39,373,000	334,017,000
September	232,562,000	*17,060,997*	51,003,000	39,300,000	322,865,000
October	326,010,000	*21,923,534*	60,350,000	42,210,000	428,570,000
November	280,055,000	*23,640,177*	47,893,000	41,245,000	369,193,000
December	247,066,000	*21,200,864*	55,435,000	47,596,000	350,097,000
Total, 1924, 12-months collections	2,968,730,139[e]	574,052,853—[g]		469,462,000	4,090,482,000[bb]
Add: *Période complémentaire*, Jan. 1–April 30, 1925[dd]					10,858,300
Total, 1924 *Exercice*					4,101,340,300
	Registration Administration only[e]	*Registration Administration only*[f]			
1925			*Not Available*		
January	*203,021,635*	*28,328,057*		38,841,000	429,763,000
February	*160,099,942*	*17,957,992*		38,837,000	340,054,000
March	*169,910,991*	*17,656,879*		39,790,000	332,786,000
April	*190,018,785*	*19,903,616*		38,213,000	395,452,000
May	300,648,000[n]	*22,907,946*	54,138,000	35,550,000	390,336,000
June	254,625,000	*21,634,584*	57,905,000	38,580,000	351,110,000
July	274,178,600	*21,953,613*	63,043,400	38,781,000	376,003,000
August	274,779,300	*19,988,741*	56,778,700	37,628,000	369,186,000
September	248,486,000	*17,581,972*	61,706,000	39,061,000	349,253,000
October	281,935,000[r]	*167,123*[s]	49,595,000	44,726,000	376,256,000
November	309,776,000[r]	*56,266*[s]	67,437,000	47,244,000	424,457,000
December	286,729,000[r]	*51,468*[s]	60,925,000	52,808,000	400,462,000
Total, 1925, 12-months collections	3,296,188,141[t]	688,532,327—[u]		490,059,000	4,535,118,000[ee]
Add: *Période complémentaire*, Jan. 1–April 30, 1926:[dd]					8,744,000
Total, 1925 *Exercice*					4,543,862,000

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[a] Source is *Bulletin de Statistique et de Législation Comparée*, except figures for Registration Administration, which were furnished the writer by the Ministry of Finance.

[b] Indirect-Tax Administration only. Much more than this was probably collected by the Registration Administration. This does not include fines which amounted to 6,680 frs. None of the 1920 or 1921 items in this table include Alsace and Lorraine.

[c] Indirect-Tax Administration only, at 10 per cent rate, which includes tax on first-class hotels, restaurants, etc. This should be deducted, and the luxury tax collected by the Registration Administration added, to arrive at the true figures.

[d] For 1922 and years following, figures include Alsace and Lorraine collections.

NOTES TO TABLE 20 (*Continued*)

[e] Registration Administration only; *cf.* note *f*. This Administration collected the bulk of the domestic tax, excluding luxury taxes, in 1921 (61 per cent), 1922 (61 per cent), 1923 (63 per cent), and 1924 (65 per cent).

[f] Registration Administration only, from unpublished figures obtained at Finance Ministry. From the same source was obtained the total monthly collections of the Registration Administration, which in no case check with the monthly figures for that Administration given in the *Bulletin de Statistique*, which latter are used in building up the total in the final column. The writer cannot explain the discrepancy, which however is almost always small — less than one per cent.

[g] This total should be the exact amount, as it is found by adding the total collected by the Registration Administration (851,624,651) and the Indirect-Tax Administration (539,639,394) at the one per cent rate. The latter figure is from the *Bulletin de Statistique*, Aug., 1923, and does not include fines (12,513,880).

[h] This total is larger than it should be, as it includes the luxury tax on *first-class* hotels, restaurants, etc. It was found by adding the total collected by the Registration Administration (165,513,665) and the Indirect-Tax Administration (101,155,200) at the 10 per cent rate.

[i] *Cf.* note *g*. Registration Administration, 1,039,632,418. Indirect-Tax Administration, 672,273,241 (*Bulletin de Statistique*, Aug., 1924), this latter figure not including fines (23,818,757), and taxes collected in 1923 but attached to the 1922 fiscal year (101,381).

[j] *Cf.* note *h*. Registration Administration, 179,625,222. Indirect-Tax Administration, 101,150,488.

[l] *Cf.* note *g*. Registration Administration, 1,386,186,076; Indirect-Tax Administration, 825,796,561 (*Bulletin de Statistique*, Aug., 1925), this latter figure not including fines (26,027,701), interest charges on back taxes (1,362,544), and taxes collected in 1924 but attached to the 1923 fiscal year (2,645).

[m] *Cf.* note *h*. Registration Administration, 178,822,139; Indirect-Tax Administration, 216,879,043.

[n] For May–Dec., 1924, and from May, 1925, on, these figures are complete. They are arrived at by subtracting from the monthly total of non-luxury receipts of the turnover tax, the figure given for the import tax in Col. 5. They may be slightly too small, if the non-luxury receipts do not include the revenue from the luxury rates as applied to imports.

[o] *Cf.* note *g*. Registration Administration, 1,928,653,071; Indirect-Tax Administration, 366,059,802, before the 20 per cent increase in tax rate on March 22, 1924, and 674,017,266 for the remainder of the year (*Bulletin de Statistique*, Aug., 1926), neither of these latter two figures including fines (19,841,808), interest charges on back taxes (3,078,107), and taxes collected in 1925 but attached to the 1924 fiscal year (685,993).

[p] *Cf.* note *h*. Registration Administration, 229,859,730; Indirect-Tax Administration, 122,503,982 before the 20 per cent increase in tax rate on March 22, 1924, and 221,689,141 for the remainder of the year.

[r] Includes coal and slaughtering "replacement" taxes.

[s] *Cf.* note *f*. After September, 1925, the Registration Administration had little to do with the tax; therefore the figures are not continued over into 1926 or 1927 in

NOTES TO TABLE 20 (*Continued*)

the table. For 1926 they are: Jan., 56,286; Feb., 165,189; Mar., 14,772; Apr., 26,055; May, 12,323; June, 4,955; July, 25,644; Aug., 138,408; Sept., 16,761; Oct., 21,598; Nov., 17,981; Dec., 16,113. For 1927: Jan., 19,469; Feb., 9,195; Mar., 9,284; Apr., 23,567; May, 20,241; June, 18,139. Further figures not available. In large part these represent luxury sales in Corsica, where the Registration Administration still has complete charge of the turnover tax.

[t] *Cf.* note *g*. This includes the coal and slaughtering replacement taxes, collected by the Indirect-Tax Administration, levied after Oct. 1, 1925, which amounted to: coal tax, 5,107,892; slaughtering tax at 10 centimes, 19,654,549; at 15 centimes, 10,705,862. Including these amounts, the Indirect-Tax Administration collected 1,906,536,067; the Registration Administration, 1,389,652,074. There are not included the Indirect-Tax Administration figures for fines (19,229,205), interest charges on back taxes (3,821,899) and taxes collected in 1926 but attached to the 1925 fiscal year (778,764). The total also includes those collections — if any — made by the Registration Administration as concerns the two replacement taxes.

[u] *Cf.* note *h*. Registration Administration, 188,234,880; Indirect-Tax Administration, 500,297,447.

[v] 1920–1921 figures do not include Alsace and Lorraine; the other years do. In no case do the items in this table include that part of the turnover tax given to the départements and communes, which was as follows:

	Départements	Communes
1920	20,293,075	40,576,150
1921	58,795,512	117,591,025
1922	67,261,051	134,522,102
1923	81,943,876	163,887,753
1924	99,387,620	198,775,240
1925	97,805,288	195,610,576

Source: Experts' Report, p. 106. The above receipts come from extra levies of 0.1 per cent on all domestic sales except those of luxury articles or in luxury hotels, restaurants, etc., and 0.1 per cent on all imports. For the last three months of 1925 they also include 0.15 per cent on sales of coal by domestic producers, or imports of coal. *Cf. supra*, p. 288.

[w] That is, the luxury taxes on (*a*) retail sales of luxury articles (incomplete figures for which are given in Column 3), (*b*) both first-class and second-class hotels, restaurants, etc., and (*c*) perhaps also imports of luxury articles going to consumers, though the writer is not certain of this. The items in this column were arrived at by subtracting from the total given in the *Bulletin de Statistique*, monthly, for the luxury rates of the turnover tax plus the luxury tax on non-commercial sales (which latter is not treated as a part of the turnover-tax system in this book), the total given elsewhere in the same *Bulletin* for the luxury tax on non-commercial sales alone.

There are available also the following figures for collections of the second-class hotels, etc., luxury tax, by the Indirect-Tax Administration:

NOTES TO TABLE 20 (*Continued*)

	Tax Collected	Per Cent of Total Tax Collected (Col. 6).
1920	6,468,185	0.69
1921	37,031,836	1.95
1922	36,217,393	1.58
1923	43,456,048	1.44
1924	57,095,850	1.39
1925	70,458,558	1.55

For the 1922 figure, the *Bulletin de Statistique* of August, 1924, gives 35,217,393, but the correct total appears to be the one given above, as printed in the *Bulletin* of the year previous.

[y] The sum of the subtotals to the left of this total, plus the figure given in note *w* above for 1921, gives 1,930,247,746. The writer is unable to account for the discrepancy of 32,790,746, which amounts to 1.7 per cent of the former figure.

[z] The sum of the subtotals to the left of this total, plus the figure given in note *w* above for 1922, gives 2,290,257,762. The writer is unable to account for the discrepancy of 9,991,762, which amounts to 0.44 per cent of the former figure.

[aa] The sum of the subtotals to the left of this total, plus the figure given in note *w* above for 1923, is 2,997,048,867. The writer is unable to account for the discrepancy of 18,752,133, which amounts to 0.63 per cent of the former figure.

[bb] The sum of the subtotals in Cols. 2, 3, and 5, plus the figure given in note *w* above for 1924, is 4,069,340,842. The writer is unable to account for the discrepancy of 21,141,158, which amounts to 0.52 per cent of the former figure.

[cc] The sum of the subtotals in Cols. 2, 3, and 5, plus the figure given in note *w* above for 1925, is 4,545,238,026. The writer is unable to account for the discrepancy of 10,120,026, which amounts to 0.22 per cent of the former figure.

The total collections include 14,642,000 from the coal tax and 32,989,000 from the slaughtering tax, for the last two months of the year. Budget *projet* for 1927, p. 130.

[dd] The *période complémentaire* represents that part of the *exercice*, or fiscal year, which extends beyond the twelve months of the calendar year. The sources for these figures are: 1922, Ministry of Finance; 1923, budget *projet* for 1925; 1924 and years following, *Bulletin de Statistique.* There appear to have been no *période complémentaire* collections for the *exercice* of 1921. For 1920, R. M. Haig, *The Public Finances of Post-War France*, p. 347, gives total turnover-tax collections as 942 millions instead of 939,579,500 as in the present table, indicating *période-complémentaire* collections of about 2.5 millions; the source cited is the 1922 budget *projet*, which is not available to the writer at this time.

TABLE

TURNOVER–TAX

By Months, and Sub-

(In francs. For sources, *cf.*

	Col. 1	*Col. 2*	*Col. 3*
		Domestic Turnover Tax, Excluding Luxury Taxes, All Import Taxes, Coal and Slaughtering Taxes, and Export Tax [a]	Revenue from Luxury-Tax Rates [a′]
From monthly tax reports in *Bulletin de Statistique*..........	1926: January	343,824,200 +	75,956,600
	February	296,877,400 +	70,826,600
	March	250,676,000 +	60,533,000
	April	342,899,500 +	71,183,300
	May	311,157,500 +	68,989,500
	June	341,077,900 +	74,685,700
	July	459,060,000 +	90,992,000
	August	458,269,400 +	99,995,000
	September	454,407,100 +	109,432,000
	October	598,081,000 +	103,655,000
	November	562,964,500 +	91,790,900
	December	465,232,300 +	86,792,700
	Total, 1926, 12-months collections..........	4,884,526,800 + [b]	1,004,832,300
From annual report of Indirect-Tax Administration, and data furnished by Registration Administration..	Registration Administration................	99,258,570 [c]	*Not Including Imports* *Luxury articles:*
	Indirect-Tax Administration: 1.2 per cent tax	2,204,225,453	*899,817,422 —* [d]
	1.9 per cent tax	2,459,930,321	*First-class hotels, etc.*
	2.4 per cent tax	80,039,883	*94,157,578 +* [e]
	Fertilizer tax	28,163,036	*Second-class hotels, etc.:*
			96,174,309
	Total, 1926..	4.871,617,263	*1,090,149,309* [f]
From monthly tax reports in *Bulletin de Statistique*..........	1927: January	599,231,000 +	79,629,000
	February	478,147,000 +	61,218,000
	March	404,087,300 +	53,473,500
	April	550,413,000 +	71,704,000
	May	543,051,300 +	78,726,900
	June	433,906,000 +	69,097,000
	July	560,056,500 +	102,234,800
	August	481,027,800 +	89,831,900
	September	416,367,000 +	78,517,000
	October	555,332,000 +	81,795,000
	November	509,876,000 +	69,341,000
	December	456,834,000 +	64,606,000
	Total, 1927, 12-months collections..........	5,988,328,900 +	900,174,100
	Add: *Période complémentaire*, Jan. 1, 1928–April 30, 1928 [q]......	14,176,200 ? [m]	? [n]
	Total, 1927 *Exercice*	6,002,505,100 +? [m]	900,174,100 [p]
From annual report of Indirect-Tax Administration...........	Registration Administration................	126,600,000 — [w]	*Not Including Imports* *Luxury articles:*
	Indirect Tax Administration: 0.5 per cent tax	8,445,275	*754,043,283 +* [v]
	1.2 per cent tax	81,907,002	*First-class hotels, etc.:*
	1.9 per cent tax	5,598,243,505	*126,220,411*
	2.4 per cent tax	694,990	*Second-class hotels, etc.:*
	Fertilizer tax	50,948,914	*100,045,412*
	Total, 1927............	5,866,839,686 — [z]	*980,309,106 +* [z]

Footnotes to this table

21

REVENUE, 1926, 1927
DIVIDED BY NATURE OF TAXES
footnotes, and marginal notations)

Col. 4 IMPORT TAX INCLUDING IMPORT REPLACEMENT TAXES AND IMPORT LUXURY TAXES	Col. 5 EXPORT TAX	Col. 6 SLAUGHTERING TAX, INCLUDING IMPORT TAXES ON FRESH MEAT	Col. 7 COAL PRODUCTION TAX, INCLUDING IMPORT TAX ON COAL	Col. 8 TOTAL TAX GOING TO STATE [i]
49,024,000	....	20,942,800	8,640,400	498,388,000
52,989,000	....	20,558,000	9,835,000	451,086,000
58,574,800	....	16,975,000	8,283,000	395,041,800 [j]
79,212,000	....	20,564,800	23,467,400	537,327,000
75,094,000	90,000	25,320,000	29,240,000	509,891,000
86,856,000	1,269,000	28,898,400	12,997,000	545,784,000
92,409,000	3,046,000	30,504,200	14,851,800	690,863,000
117,555,000	4,808,000	28,729,000	16,761,600	726,118,000
87,705,000	7,978,000	26,971,100	17,309,800	703,803,000
84,580,000	20,928,000	31,737,500	17,722,500	856,704,000
87,475,000	31,155,000	30,852,000	18,871,600	823,109,000
91,414,600	36,275,000	29,855,700	20,232,700	729,803,000
962,888,400	105,549,000	311,908,500	198,212,800	7,467,917,800 [r]
Import taxes on fresh meat: 24,725,800 [s] Import tax on coal: 91,069,740 [s] Import tax on fertilizers: 11,093,964 [t] Import tax on tea and coffee: 151,840,000 [u] Import tax, excluding above replacement taxes: 684,159,496 [v]		*Not Including Import Taxes on Fresh Meat*	*Not Including Import Tax on Coal*	Add: *Période Complémentaire*, Jan. 1, 1927–Apr. 30, 1927: 11,770,900 [q] Total, 1926 *Exercice:* 7,479,688,700
962,889,000	109,455,990 [h]	*287,182,700*	*107,143.060*	7,459,557,600 [k]
75,598,000	42,586,000	36,110,500	22,241,500	855,396,000
85,412,000	27,900,000	32,835,000	21,947,000	707,459,000
89,216,000	7,870,000	30,812,000	19,305,200	604,764,000
87,386,000	5,484,000	32,898,000	19,256,000	767,141,000
93,199,000	2,750,000	32,513,800	19,752,000	769,993,000
88,004,000	1,855,000	28,941,000	17,954,000	639,757,000
79,244,600	1,173,000	33,174,200	17,370,500	793,253,600
76,317,000	808,000	30,618,200	15,408,100	696,011,000
77,151,000	607,000	30,608,000	16,052,000	619,302,000
86,967,000	604,000	35,691,000	16,242,000	776,631,000
82,200,000	380,000	33,024,000	15,893,000	710,714,000
98,400,000	312,000	33,396,000	11,512,000	665,060,000
1,021,094,600	92,329,000	390,621,700	212,933,300	8,605,481,600
? [n]	187,000	130,000	248,000	14,741,200
1,021,094,600 [p]	92,516,000	390,751,700	213,181,300	8,620,222,800
Import taxes on fresh meat: 52,133,228 [aa] Import tax on coal: 72,397,301 [aa] Remainder of import tax: 896,564,471 [bb]		*Not Including Import Taxes on Fresh Meat*	*Not Including Import Tax on Coal*	
1,021,095,000	94,261,059+ [cc]	*338,618,472*	*140,783,999*	8,553,371,193 [dd]

will be found on pages 342–343.

NOTES TO TABLE 21 (*Continued*)

[a] These figures (Column 2) were arrived at by subtracting from the monthly totals for "Turnover tax, excluding tax of 10 per cent [should read, 'luxury taxes of 4, 6, 12 and 13 per cent'], but including coal tax, slaughtering tax and export taxes" (*Bulletin de Statistique*), the sum of the monthly totals of the last three taxes and the turnover-tax collections by the Customs (import tax) reproduced in Columns 7, 6, 5, and 4 of this table, and likewise taken from the *Bulletin.* The resulting figures in Column 4 are somewhat, but not much, too small, as the luxury rates applicable to imports were probably (though the writer is not sure of this) subtracted a second time when the figures in Column 4 were used; and it is certain that this was the case with those parts of the slaughtering and coal taxes collected upon importation. The sum of the individual tax items for each month checks exactly with the monthly total in Column 8, taken from the consolidated tables in the *Bulletin;* but that does not mean there is no double counting in the preceding columns. Rather, it indicates that while Column 4 duplicates to some extent Columns 3, 6, and 7, it thereby, through the process explained above, makes the figures in Column 2 just that much too small, resulting in a perfect balance. The figures in Column 2 include domestic collections of the fertilizer replacement tax, levied on and after April 1, 1926.

[a'] For method used in arriving at these figures, *cf.* note *w*, Table 20. The writer is not certain that these figures include imports, but is inclined to think they do.

[b] Judging from the year's figures on meat and coal import taxes, this should be at least 5,000,321,940 instead of 4,884,526,400. *Cf.* note *a* above.

[c] The annual report of the Indirect Tax Administration puts the total collections of the Registration Administration (including luxury rates) at 100,343,000, against the 99,774,655 shown in the data submitted to the writer at the Finance Ministry, which latter figure was broken down into luxury sales, 516,085, and all others, 99,258,570.

[d] Indirect-Tax Administration collections at 6 and 12 per cent: 899,301,338 (includes tax on first-class establishments for first three months of 1926). Registration Administration collections at 12 per cent: 516,084.

[e] For last nine months of 1926 only. *Cf.* note *d* above.

[f] The writer is unable to explain the discrepancy between this and the total of the monthly collections.

[h] Collected by Indirect-Tax Administration only. The writer is unable to explain the discrepancy between this and the total of the monthly collections.

[i] Not included in this table are 114,566,307 and 229,132,614, the proportion of the turnover tax given by the State to départements and communes, respectively (figures from Ministry of Finance), from the 1926 collections. Including these amounts, the grand total figure for turnover-tax collections for 1926 is 7,811,616,721. Neither are the 1927 local collections figures (not available) included in this table.

[j] The *Bulletin de Statistique* gives 395,042,000, but this is a result of rounding off the import collections from 58,574,800 to 58,575,000.

[k] Not including 9,366,658 (regular turnover tax) and 202,843 (coal and meat taxes) for *indemnités de retard*, and 42,412,345 for fines (*pénalités*); but including 30,999,614 for back taxes (*rappels de droits aux anciens tarifs*), and 120,664 for *période complémentaire* collections, neither of which items is included in the subtotals to the left. These figures for the Indirect-Tax Administration only. Although the total figure

NOTES TO TABLE 21 (*Continued*)

compares fairly closely with the one directly above it (compiled from the monthly tax collections reports), there are important differences in the constituent items, especially as to the luxury taxes, where a difference of 85,000,000 appears.

[m] Includes revenue from luxury rates and import taxes (other than replacement taxes), if any, for *période complémentaire*.

[n] Not stated. *Cf.* note *m* above.

[p] Perhaps slightly too small. *Cf.* notes *m* and *n* above.

[q] *Cf.* note *dd*, Table 20.

[r] This includes 151,840,000 from the tax on tea and coffee, and 39,257,000 from the tax on fertilizers. *Cf.* 1928 budget *projet*, Vol. I, p. 90.

[s] Obtained by subtracting from the total collections as shown in the *Bulletin de Statistique's* monthly reports, the collections made by the Indirect-Tax Administration alone.

[t] Obtained by subtracting from the total collections as shown in the 1928 budget *projet*, the collections made by the Indirect-Tax Administration alone.

[u] From 1928 budget *projet*, Vol. I, p. 90.

[v] Obtained by subtracting from the total Customs collections as shown in the Indirect-Tax Administration's report, the replacement tax items as to imports.

[w] This includes the collections for the luxury rates in Corsica, and apparently also some of the export tax.

[x] *Cf.* note *w* above.

[y] Indirect-Tax Administration only. *Cf.* note *w* above. Of this amount, 743,408,057 came from the tax on retail sales and the 12 per cent tax on automobile manufacturers, and 10,635,226 from the 6 per cent tax on the latter.

[z] *Cf.* note *y* above.

[aa] Obtained by subtracting, from the total given in the monthly collections reports, the domestic collections, as given in the Indirect-Tax Administration report.

[bb] Including the import replacement taxes on fertilizers, tea and coffee, and raw sulphur. The data that would permit separate statements of their amounts — in contrast to those for 1926 (*cf.* notes *t* and *u* above) — are not available at this moment of writing. *Cf.* note *v* above.

[cc] As in 1926, the figure for collections by the Indirect-Tax Administration alone, is greater than that given in the monthly reports. The writer is unable to explain the discrepancy.

[dd] Not including 17,325,744 (regular turnover tax) and 172,965 (coal and meat taxes) for *indemnités de retard*, and 65,954,927 for fines (*pénalités*); but including 111,259,507 for back taxes (*rappels de droits aux anciens tarifs*) and 204,364 for *période complémentaire* collections, neither of which items is included in the subtotals to the left. These figures for Indirect-Tax Administration only.

TABLE 22

TURNOVER-TAX REVENUE, 1928

By Months, and Subdivided by Nature of Taxes

(In thousands of francs.[a] Source: *Bulletin de Statistique*)

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10	Col. 11
	Domestic Turnover-Tax Collections, Excluding Luxury Taxes, Import Taxes, Export Tax, and Replacement Taxes on Coal, Meat, Tea, Coffee, Fertilizers, and Sugar [a,f]	Revenue from Luxury Tax Rates [b]	Import Tax, Including Import Replacement Taxes and Import Luxury Taxes	Export Tax	Slaughtering Tax, Including Import Taxes on Fresh Meat	Coal Production Tax, Including Import Tax on Coal	Tea and Coffee Replacement (Import) Taxes	Fertilizer Replacement Tax, Including Import Tax on Fertilizers	Sugar Replacement Tax, Including Import Tax on Sugar	Total Tax Going to the State
1928										
January......	578,510.1 +	77,444	89,261	288	37,626.4	15,765.8	15,103.3	5,898.6	.....	819,897.2
February.....	494,193 +	78,028	84,966	136	34,379	15,428	16,270	5,996	.....	729,396
March........	411,719 +	62,677	99,016	198	32,342	16,104	15,892	8,451	.....	646,399
April.........	562,845 +	77,162	87,536	221	35,254	15,965	15,692	12,389	.....	807,064
May.........	539,044 +	88,474	86,997	106	32,194	16,538	15,723	7,728	.....	786,804
June.........	444,701 +	88,823	95,988	111	31,771	16,072	19,117	6,280	.....	702,863
July..........	596,474 +	103,384	86,940	129	34,597	15,456	16,371	5,568	.....	858,919
August.......	523,871 +	99,378	88,665	104	30,349	16,457	15,639	5,575	.....	780,038
September....	445,805 +	88,174	91.364	32	30,122	15,457	16,179	4,804	.....	691,937
October.......	611,606 +	91,427	102,152	50	36,784	16,289	17,616	6,312	2,538	884,774
November....	533,242 +	76,040	100,874	110	33,784	15,546	17,023	8,463	13,689	798,771
December.....	476,353 +	82,156	105,764	58	33,980	17,754	16,094	8,065	15,110	755,334
Total, 1928, 12-months collections.....	6,218,363.1 +	1,013,167	1,119,523	1,543	403,182.4	192,831.8	196,719.3	85,529.6	31,337	9,262,196.2
Add: *Période complémentaire,* Jan. 1, 1929–April 30, 1929[f]	25,684 ?[e]	?[d]	?[d]	47	279	2	....	6	7,656	33,674
Total, 1928 *Exercice*.......	6,244,047.1 + ?[e]	1,013,167[e]	1,119,523[e]	1,590	403,461.4	192,833.8	196,719.3	85,535.6	38,993	9,295,870.2

Footnotes to this table will be found at top of pages 346 and 347.

TABLE 23

TURNOVER-TAX REVENUE, JANUARY–JUNE, 1929

By Months, and Subdivided by Nature of Taxes

(In thousands of francs.[a] Source: *Bulletin de Statistique*)

Col. 1	*Col. 2*	*Col. 3*	*Col. 4*	*Col. 5*	*Col. 6*	*Col. 7*
	Domestic Turnover-Tax Collections (Excluding Luxury Taxes, Import Taxes, Export Tax, and Replacement Taxes on Coal, Meat, Tea, Coffee, Imported Sulphur, and Flour[b])	Revenue from Luxury Tax Rates[c]	Import Tax (Including Import Replacement Taxes and Import Luxury Taxes)	Export Tax	Slaughtering Tax (Including Import Taxes on Fresh Meat)	Coal Production Tax (Including Import Tax on Coal)
1929						
January..........	629,643 +	97,707	98,956	36	39,543	16,285
February.........	507,962 +	88,478	94,843	71	33,193	16,627
March...........	422,422 +	78,242	104,708	20	31,029	17,887
April............	565,517 +	87,024	105,200	44	36,041	18,223
May.............	542,969 +	95,851	105,009	81	32,103	19,493
June.............	457,679 +	85,608	104,758	22	31,026	18,836
Total, first six months, 1929....	3,126,192 +	532,910	613,474	274	202,935	107,351

[a] *Cf.* note *a*, Table 22.

[b] For methods used in arriving at these figures see note *a'* Table 22. The two methods mentioned check with each other in every case. The titles should be changed to allow for the flour and sulphur replacement taxes.

[c] For method used in arriving at these figures, see note *w*, Table 20.

	Col. 8	*Col. 9*	*Col. 10*	*Col. 11*	*Col. 12*	*Col. 13*
	Tea and Coffee Replacement (Import) Taxes	Fertilizer Replacement Tax (Including Import Tax on Fertilizers)	Sugar Replacement Tax (Including Import Tax on Sugar)	Flour Replacement Tax (Including Import Tax on Flour)	Raw Sulphur Replacement (Import) Tax	Total Tax Going to the State
1929						
January..........	16,725	8,236	9,293	41	556	917,021
February.........	16,356	8,711	13,967	2,258	254	782,720
March...........	16,780	11,097	14,845	10,312	514	709,856
April............	17,392	12,949	13,801	12,413	451	869,055
May.............	15,920	11,598	14,052	11,940	313	849,329
June.............	15,860	8,203	16,509	13,821	826	753,148
Total, first six months, 1929	101,033	60,794	82,467	50,785	2,914	4,881,129

NOTES TO TABLE 22

[a] In contrast to Tables 20 and 21. In no case do the original data used in this table give anything but zeros for the last three digits, save where indicated by the use of the decimal.

[a'] These figures were arrived at by subtracting from the monthly totals for "turnover tax, excluding tax of 10 per cent [should read 'luxury taxes of 3.6, 4, 6, 12 and 13 per cent'], but including coal tax, slaughtering tax and export taxes [should be added here, 'coffee and tea taxes, fertilizer tax, and, during and after October, 1928, sugar tax']" (*Bulletin de Statistique*), the sum of the monthly totals of the last six taxes and the turnover-tax collections by the Customs (import tax), reproduced in Columns 7, 6, 5, 8, 9, 10, and 4, respectively. An alternative method, which could likewise be

TABLE

TURNOVER-TAX COLLECTIONS:

(In thousands of francs .

		1920 [a] (Tax in Effect from July 1, 1920)		1921 [a]	
		Tax Collected	Per Cent of Total	Tax Collected	Per Cent of Total
	Ordinary-rate Turnover Tax	?	?	1,391,264	73.32
	Luxury Taxes[k]	51,861	5.51	303,701	16.01
Replacement Taxes	Slaughtering Tax: *Excluding imports*	......	....	....	....
	Including imports	......	....	....	....
	Coal Tax: *Excluding imports*	......	....	....	....
	Including imports	......	....	....	....
	Fertilizer Tax: *Excluding imports*	......	....	....	....
	Including imports	......	....	....	....
	Sugar Tax: *Including imports*	......	....	....	....
	Flour Tax	......	....	....	....
	Coffee and Tea Taxes	......	....	....	....
	Sulphur Tax	......	....	....	....
	Export Tax	......	....	....	....
	Import Tax: [j] *Including replacement taxes*	170,988	18.15	235,283	12.40
	Excluding meat, coal, fertilizer, tea and coffee taxes	......	....	....	....
	Excluding meat and coal taxes	......	....	....	....
	Total, Turnover-Tax System	942,000 [b]	....	1,897,457	....

Footnotes to Table 24 will be

NOTES TO TABLE 22 (*Continued*)

utilized for 1926 and 1927, is to add to the luxury-tax collections (arrived at as described in note *b* below), the Customs (import tax) collections, and to subtract the sum of these from the figure given for the turnover-tax collections, excepting only the coal, meat, tea, coffee, fertilizer (and during and after October, 1928, sugar) and export taxes. This checks with the above method in every month of 1928 (save August, where there is a difference of 900 frs.), all the figures being taken from the monthly *Bulletin* reports. As to why the resulting figure may be somewhat too small, *cf.* note *a* to Table 21.

[b] For method used in arriving at these figures, *cf.* note *w*, Table 20.

[c] Includes revenue from luxury rates and import taxes (other than replacement taxes), if any, for *période complémentaire*.

[d] Not stated. *Cf.* note *c* above.

[e] Perhaps slightly too small. *Cf.* notes *c* and *d* above.

[f] *Cf.* note *dd*, Table 20.

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JULY 1, 1920–JULY 1, 1929

Sources: Tables 20–23)

1922[a]		1923[a]		1924[a]		1925[a]	
Tax Collected	Per Cent of Total	Tax Collected	Per Cent of Total	Tax Collected	Per Cent of Total	Tax Collected	Per Cent of Total
1,711,906	74.60	2,211,983	73.06	2,968,730	72.38	3,248,557+[c]	71.49+
316,993	13.81	439,157	14.50	631,149	15.39	758,991	16.70
....	....	....	....	....	....	....	....
....	....	....	....	....	....	32,989[d]	0.73
....	....	....	....	....	....	....	....
....	....	....	....	....	....	14,642[d]	0.32
....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....
261,359	11.39	345,909	11.42	469,462	11.45	490,059	10.79
....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....
2,294,716[e]	....	3,027,731[e]	....	4,101,340[e]	....	4,543,862[e]	....

found on pages 348 and 349.

TABLE 24

TURNOVER-TAX COLLECTIONS:

(In thousands of francs.

		1926			
		From Monthly Tax Reports in "Bulletin de Statistique"		From Annual Report of Indirect-Tax Administration and Data Furnished by Registration Administration	
		Tax Collected	Per Cent of Total	Tax Collected	Per Cent of Total
	Ordinary-rate Turnover Tax	4,884,526+[g]	65.30	4,843,454	64.93
	Luxury Taxes[k]	1,004,832[i]	13.43	1,090,149	14.61
Replacement Taxes	Slaughtering Tax: *Excluding imports*	....	....	287,183	3.85
	Including imports	311,909	4.17	....	....
	Coal Tax: *Excluding imports*	....	....	107,143	1.44
	Including imports	198.213	2.65	....	....
	Fertilizer Tax: *Excluding imports*	....	....	28,163	0.38
	Including imports	39,257[f]	0.52[f]	....	....
	Sugar Tax: *Including imports*	....	....	....	....
	Flour Tax	....	....	....	....
	Coffee and Tea Taxes	151,840[f]	2.03	....	.. .
	Sulphur Tax	....	....	....	....
	Export Tax	105,549	1.41	109,456	1.47
	Import Tax:[j] *Including replacement taxes*	962,888	12.87	962,889	12.91
	Excluding meat, coal, fertilizer, tea and coffee taxes	....	....	684,159	9.17
	Excluding meat and coal taxes	....	....	....	....
	Total, Turnover-Tax System	7,479,689[e]	....	7,459,558[e]	....

---

[a] From monthly tax reports, *Bulletin de Statistique*, and data furnished by Registration Administration. *Cf.* Table 20 (p. 335).

[b] Including *période complémentaire* collections taken from R. M. Haig, *The Public Finances of Post-War France*. *Cf.* note *dd*, Table 20 (p. 335).

[c] This total differs from that in Table 20, Column 2, as the collections for the coal and slaughtering taxes are not included here in this item. Their subtraction, including as it does the import sections of these taxes, leaves the item somewhat smaller than it should be.

[d] From budget *projet* for 1927.

(*Continued*)

JULY 1, 1920–JULY 1, 1929
Sources: Tables 20–23)

1927				1928		1929 (First six months only)	
From Monthly Tax Reports in "Bulletin de Statistique"		From Annual Report of Indirect Tax Administration		From Monthly Tax Reports in "Bulletin de Statistique"		From Monthly Tax Reports in "Bulletin de Statistique"	
Tax Collected	Per Cent of Total	Tax Collected	Per Cent of Total	Tax Collected	Per Cent of Total	Tax Collected	Per Cent of Total
6,002,505+[e,h]	69.63+	5,815,891−	68.00−	6,244,047+[e]	67.17+	3,126,192+	64.05+
900,174[i]	10.44	980,309+	11.46+	1,013,167[i]	10.90	532,910	10.92
....	....	338,618	3.96	....	....	....	....
390,752[e]	4.53	....	....	403,461[e]	4.34	202,935	4.16
....	....	140,784	1.65	....	....	....	....
213,181[e]	2.47	....	....	192,834[e]	2.07	107,351	2.20
....	....	50,949	0.60	....	....	....	....
?	?	....	....	85,536[e]	0.92	60,794	1.25
....	....	....	....	38,993[e]	0.42	82,467	1.69
....	....	....	....	....	....	50,785	1.04
?	?	....	....	196,719	2.12	101,033	2.07
....	....	....	....	?	?	2,914	0.06
92,516[e]	1.07	94,261+	1.10+	1,590	0.02	274	0.01
1,021,095	11.85	1,021,095	11.94	1,119,523	12.04	613,474	12.57
....	....	....	....	....	....	....	....
....	....	896,564	10.48	....	....	....	....
8,620,223[e]	....	8,553,371[e]	....	9,295,870	....	4,881,129	....

[e] Including *période complémentaire* collections.

[f] From budget *projet* for 1928.

[g] Includes total domestic collections from fertilizer tax.

[h] Includes total domestic collections from fertilizer tax.

[i] Perhaps including imports; *cf.* note *w*, Table 20.

[j] Including luxury imports.

[k] For 1920–1925, figures obtained by adding totals in Column 3, Table 20 (p. 335), to items given in note *w*, same table.

TABLE 25

PER CENT OF TOTAL TAX REVENUE SUPPLIED BY TURNOVER TAX, 1920–1927

	State Revenue [a]	Département Revenue [b]	Commune Revenue [b]
1920	5	4	2
1921	11	7	4
1922	11	6	4
1923	14	7	5
1924	16	8	6
1925	15	7	5
1926	20	6	4
1927	20	?	?

[a] From Table 24, and R. M. Haig, *The Public Finances of Post-War France*, p. 400.

[b] From Table 20 (note *v*), Table 21 (note *i*), and R. M. Haig, *op. cit.*, p. 397.

CHAPTER XVI

SUMMARY AND CONCLUSION

In passing judgment upon the turnover tax as used in France since 1920, the critic should, as far as possible, feel himself in the precarious position of the various Finance Ministers of the time, and ask himself what else he would have done had he been in their place. Given the political set-up, the answer is fairly obvious, as the reader has probably judged from the contents of preceding pages. It might have been possible to keep the rate at 1.1 per cent, or even to lower it, but some kind of a general sales tax it seems there was bound to be. Such comment is superficial, perhaps; would it not have been better had Frenchmen as a whole considered more carefully the merits of paying their income taxes, or studying more coolly a capital levy? But the writer has no intention of offering such gratuitous advice; rather, it appears more profitable to examine the tax in the light of what the French expected from it. A tax may be good or bad depending upon the point of view from which one regards its effects; but if a tax is capricious, unpredictable, and acutely disappointing in its effects, all will agree that to that extent it is defective.

The chief thing desired by the introduction of the turnover tax was easily and speedily collectible revenue which would keep pace with inflation. All other considerations were secondary.

Considered from the standpoint of revenue alone, the tax has been successful to a high degree. True, in its early years it was disappointing in its yield, largely because of extravagant hopes, widespread evasion and business depression. Lately, with more conservative estimates and better collections, this criticism has been largely forgotten. Up through 1926 higher price levels and increased business activity accounted for practically all of the gain in collections.[1] To a Finance Minister, however, the essential point is that the tax is capable of raising between 7 and 9 billion francs, nearly one-fifth of France's total State tax revenue. The tax's "adequacy" is unquestioned in France today, though if one asks by what standard adequacy is to be tested, no clear answer might be forthcoming.

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[1] *Cf. supra*, pp. 56–61.

On the other hand, a lasting disappointment has been the difficulty with which the tax has been collected — a phase of the problem, by the way, which has been little considered in the United States, where its ease of collection has been assumed, chief concern being expressed over its economic repercussions. In France, the troubles of collection and control have been due both to the psychology of the French taxpayer and to the nature of the tax itself.

Although the tax was sponsored by certain business interests in 1920 — with conditions attached which Parliament cast aside — it appears to have met with little better reception among the rank and file of taxpayers than has the income tax among the more wealthy. Ways were soon found to falsify accounts of gross receipts, and the Tax Administration for several years following 1920 was unable to cope with the situation, because of lack of men and money, and because of lack of appreciation of the tremendous task before it. The situation has improved somewhat recently, but a considerable amount of fraudulent evasion probably still exists.

Furthermore, even with the best will in the world on the part of all concerned, the tax could never be a simple one to levy, as a glance through Part III shows.[2] Although it does not involve intricacies of accounting as much as does the income tax, it probably exceeds the latter in the host of borderline problems regarding the initial impact of the tax. Whether a given person is subject to the tax at all or not is a question fraught with difficulty. But on the whole it is probably only fair to say that the turnover tax is more simple to administer than the income tax and does bring in more francs in revenue per franc expended on tax agents, even if it has not lived up to earlier expectations of extreme simplicity and ease. It is also somewhat more simple to construct, from the legislator's point of view, than the income tax.

Probably the most severe indictment to be brought against the tax is its influence in changing methods of business. If not entirely unforeseen, these shifts were certainly not the aim of the legislators who voted the tax, and the disappearance of dealers in favor of commission merchants and brokers, the comparative advantages given to large and highly integrated business units, and other by-products of the tax have been used more than once as arguments for its repeal. Furthermore there are doubtless other, and perhaps more important effects on the business and social structure which have not been brought to light.

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[2] *Supra*, pp. 191–312.

To some, the most severe criticism of all against the tax is that it may discriminate against the poor, for if it is largely shifted, it becomes a tax on expenditures, and as such inversely progressive — the rich man paying in tax a smaller percentage of his income than the poor, as his expenditures amount to a smaller percentage. But it is clear that Parliament expected such a result in 1920, and attempted partially to compensate for it by the income taxes and a high rate for luxury expenditures, as well as by certain specific commodity exemptions. They got, presumably, what they wanted. But in upsetting the established channels of business they got more than they wanted, or — and this is the important point — more than they expected. Such possibilities were recognized, it is true, but the magnitude of the changes does not seem to have been clearly foreseen.

Judged by the standards of taxation set up by modern authorities the turnover tax is certainly to be condemned. The chances are strong that it is more unfavorable to the poorer classes than is an income tax, and in addition it partakes of the latter's vices of difficulty of collection and forecast, and interferes more with established methods of business. But given the background of French public finance, with its powerfully established and many-branched system of indirect taxes, and with the still influential hostility of important tax-paying classes to the income tax, it is difficult to see how the situation could be otherwise.

This can be exemplified in the hazardous business of guessing at the future of French taxation. The turnover tax seems firmly entrenched in France for many years, if not decades, to come. In the immediate future what tax reductions there are will probably be spread piecemeal over the whole complicated structure of income, registration, stamp, excise, and turnover taxes.

Such at least is the tendency revealed by the budget law for 1929, and the budget *projet* for 1930. Reductions have been made in the schedules of the income tax, through increasing initial exemptions and reduction of the tax payable, and taxes on railroad transportation have been lightened. Further progress along these same lines is proposed, as well as a lowering of the rates on transfer of real estate, and on inheritance. Meanwhile the turnover tax has been left intact, save for a proposed reduction of the luxury tax on retail sales, from 12 per cent to 10 and 6 per cent. The 1930 budget *projet* remarks, "It seems, at first, impossible to reduce by an appreciable amount, the yield of a tax which gives almost 10 billions a year. It is one of the main supports (*bases fondamentales*) of our budget."[3] True, further replacement or "production" taxes remain a possibility, but only that, apparently. If the turnover tax is abolished soon, it will be indicative both of the political power of the radical element and of the steadily working hardships on business caused by the levy. Instead of complete abolition, the chances are rather for a gradual reduction of the rate, as has occurred in Germany.

The most discouraging feature of the situation is that a war legacy has thus become solidified into the French fiscal system. Forced on the French people by results of the war, the tax now has a hold on them which they might regret the more could they realize what it would mean to start afresh and build up their tax system free from the urgent pressure for ready money.

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[3] *Bulletin de Statistique*, May, 1929, p. 961.

APPENDIX

APPENDIX ON RECENT DEVELOPMENTS

As this book goes to press, a few significant developments have occurred in the French turnover-tax system which may be noted briefly here:

(1) The milling tax has been abolished, and henceforth all receipts from sales, and commissions on sales of flour, semolina, and refuse grain are entirely exempt from the turnover tax in any form. Thus the attempt to counteract tax losses from the shifting of buyers and sellers to the status of commission merchants in the grain trade has been given up.[1]

(2) Further favor has been shown to the shipping and fishing trade, complete exemption being granted payments to shipbuilders, and to sales of ship engines, boilers, fishing nets, etc., by the constructors thereof. Imports of ships, engines, fishing nets, repair pieces, etc., are also exempt. This extends the privilege already granted by the law of August 1, 1928.[2]

(3) The tax base for the replacement tax on sugar is lowered as a consequence of the lowering of the *droit de consommation* on sugar, which tax is included in arriving at the taxable value of sugar for the replacement tax.[3]

(4) The difficulty of making the replacement tax on fertilizers work out according to the evident wishes of Parliament has caused the Administration to change the law itself in practice — not the first time this has been done with the turnover tax.[4] Any given lot of fertilizer should be subject to the tax only once; hence the law provides that sales between fertilizer producers, and imports by them, are exempt from the replacement tax. But sometimes fertilizer is imported by a non-producer and sold to a producer

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[1] Art. 13 of law of July 31, 1929, abrogating arts. 31 of the law of Dec. 30, 1928, and 30 of the law of March 19, 1928. *Cf. supra*, pp. 155, 280, 283, 285.

[2] Art. 6 of law of Aug. 10, 1929. *Cf. supra*, p. 263.

[3] Art. 12 of law of July 31, 1929, reducing the *droit de consommation* from 125 frs. per 100 kilos to 100 frs.

[4] *Cf. supra*, p. 296.

within France. To prevent double taxation, the Finance Minister has allowed such merchant importers, not dealing exclusively with the consuming trade, exemption from the import-replacement tax as concerns the fertilizer which they sell to domestic producers. The episode shows clearly that Parliament underestimated the technical difficulties inherent in the replacement tax.[5]

(5) The replacement tax on coal, formerly 2.5 per cent, has been raised to 3.65 per cent (3.5 to the State, 0.15 to the départements and communes), the express purpose of this increase being to furnish the State the wherewithal to raise its contribution to the *Caisse autonome* for miners' pensions.[6] Thus a part of the turnover-tax system has begun to lose contact with its origin, for this rate increase, unlike the former one, is not coincidental with an increase in the ordinary turnover tax. It may not be long before the other replacement taxes assume more and more the characteristics of independent *contributions indirectes*, with all the painful discussion of equivalence of burden with the ordinary turnover tax forgotten.[7]

(6) Agricultural mutual-credit societies have been exempted from the business-profits schedule of the income tax and hence are exempt from the turnover tax.[8] This merely confirms the practice followed by the Administration ever since 1920, as regards the turnover tax, since the interest rates of these societies are fixed by law.[9]

(7) The doctrine developed by the Administration that sales of merchandise in *entrepôt réel*[10] were not sales in France because the merchandise was not legally "imported" when in such a state, has been overthrown by a decree of the *Conseil d'État* (February 8, 1929). Henceforth such sales are taxable under the turnover tax.

(8) The 12 per cent tax on retail sales of luxury articles has been reduced to 6 per cent as concerns those articles declared

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[5] *Cf.* official letter reproduced in *Journal des Contributions Indirectes*, Aug. 22, 1929, p. 418.

[6] Law of April 16, 1929, art. 3. Originally scheduled to take effect Jan. 1, 1930, the increase in rate has been postponed to April 1, 1930, by the law of Dec. 29, 1929, art. 25. The Chamber, in considering the 1930 finance bill, voted to repeal the rate increase. *J.C.I.*, March 22, 1930.

[7] For a protest against this increase from the Union des Chambres de Commerce Maritimes et des Ports Français, *cf. J.C.I.*, May 22, 1929; from the Assemblée des Chambres de Commerce, *Économiste Européen*, June 14, 1929.

[8] Law of March 30, 1929, art. 18. [9] *Cf. supra*, p. 224. [10] *Cf. supra*, p. 291.

de luxe because selling above a certain price.[11] Articles listed as *de luxe* because of their nature, regardless of the selling price, continue to be taxed at 12 per cent, and sales of food or lodging in *de luxe* hotels, restaurants, etc., likewise continue to bear the 13 and 4 per cent rates. A significant by-product of the law is the Administration's decision that the lower rate applies to all payments (or debits on the merchant's books) occurring on and after January 1, 1930, no matter when the transaction was closed.[12] Thus the payment (or debit) of the tax is apparently definitely fixed as the occasion (*fait générateur*) for the tax, instead of the conclusion of the sale agreement or delivery, even though this doctrine costs the Government money when rates are lowered instead of being raised.

It has been proposed, in the finance bill for 1930, to lower the luxury rates on hotels from 4 and 13 per cent to 3 and 10 per cent. This would restore the original rates, in force in 1920.

(9) The luxury tax on automobiles, levied at the production stage, has been reduced from 12 and 6 per cent to 10 and 5 per cent for passenger and semi-commercial vehicles respectively.[13]

(10) The Government has presented to Parliament a bill to extend the replacement tax system to wines. The most significant feature of the proposal is the fact that the tax is to be levied at the same time, and on the same base, as the already existing *droit de circulation* (one of the *contributions indirectes*) — thus paralleling the sugar tax. The resemblance to the *contribution indirecte* will be even closer than in the case of the sugar tax, as the new levy is to be a specific one, with a minimum rate of 7 francs per hectolitre. If the annual average price of wine rises above 150 francs per hectolitre the rate also rises in steps.[14] Although different in some details from the *droit de circulation*, the new tax, if and when passed, would appear to indicate a preference for the familiar excise taxes over the general turnover tax, so far as revenue considerations allow. The Chamber has accepted this replacement tax, with a lowering of the minimum rate from 7 to 5.50 francs, and with the inclusion of cider and perry, minimum rate, 2.75 francs per hectolitre.

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[11] Law of Dec 29, 1929, art. 20. The same reduction applies to imports going to a *non-commerçant*.

[12] *Journal des Contributions Indirectes*, Jan. 22, 1930, p. 44.

[13] Law of Dec. 29, 1929, art. 20. The same reduction applies to imports.

[14] *Journal des Contributions Indirectes*, Feb. 8, 1930, p. 85.

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[1] For description of the various documents, books, etc., *cf.* Robert Murray Haig, *The Public Finances of Post-War France*, pp. 453–460, where most of the sources noted here are cited, with explanatory notes.

[2] Books to which only incidental reference is made are not cited here; complete reference is given in the footnote where the citation is made.

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ABBREVIATIONS USED IN FOOTNOTE CITATIONS

D.P. = *Documents Parlementaires*
Déb. = *Débats*
Ch. = *Chambre*
S.O. = *Session ordinaire*
S.E. = *Session extraordinaire*
J.C.I. = *Journal des Contributions Indirectes*
J.-C.F. = *Juris-Classeur Fiscal*

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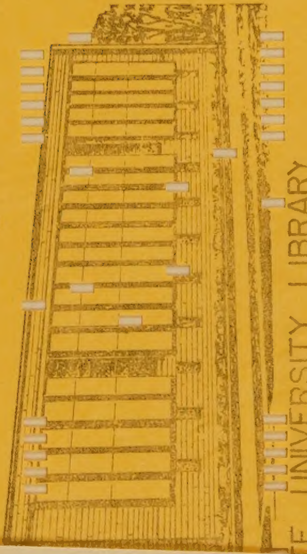

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